

FISCAL YEAR 1996 BUDGET

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HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

OVERSIGHT HEARINGS ON THE PRESIDENT FY 1996 BUDGET REQUEST
FOR PROGRAMS AND SERVICES PROVIDED FOR THE BENEFIT OF
AMERICAN INDIANS, ALASKA NATIVES, AND NATIVE HAWAIIANS

FEBRUARY 14, 16, 1995
WASHINGTON, DC



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BUDGET REQUEST FOR FISCAL YEAR 1996 FOR INDIAN PROGRAMS

TUESDAY, FEBRUARY 14, 1995

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m. in room 485, Russell Senate Office Building, Hon. John McCain (chairman of the committee) presiding.

Present: Senators McCain, Inouye, Conrad, Reid, Wellstone, Campbell, and Domenici.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. This hearing will come to order.

I want to thank all of you for coming this morning and I want to thank all of our witnesses. I apologize for the delay in beginning the hearing. Other members of the committee will be coming along. We have a vote in progress, so I expect other members coming. Since we have a very full schedule this morning, I thought I would go ahead and begin the hearing. If other Senators come in who wish to make a statement, then we will pause for that purpose.

The purpose of today's hearing is to receive testimony from administration witnesses regarding the President's budget request for Indian programs for the 1996 fiscal year. This is the first of two hearings we will hold on this subject. On February 16 we will receive testimony from witnesses who represent Indian tribes and tribal organizations.

In addition to witnesses who are appearing before the committee today, we have requested written testimony from the National Indian Gaming Commission and the Departments of Justice, Transportation, Agriculture, and Energy.

The Committee on the Budget has notified us that the views and estimates of this committee are due no later than March 1. In order to accommodate that deadline, we will take final action on the budget views and estimates of this committee on the first of March. Accordingly, the record of this hearing as well as the hearing on February 16 will close on February 24.

Our witnesses for today's hearing include the Secretary of the Department of Housing and Urban Development, Henry Cisneros. I might point out that Secretary Cisneros is here at his request, indicative of his long-time commitment and concern about Indian issues in general, and Indian housing in particular. We are especially pleased, Mr. Secretary, that you would take the time from

your busy schedule and express your deep and abiding concern on these issues and appear with us today. We will also hear from the Assistant Secretary for Indian Affairs of the Department of the Interior, Ada Deer; the Director of Indian Health Service, Dr. Michael Trujillo; and the Assistant Secretary for Elementary and Secondary Education in the Department of Education, Thomas Payzant; the Assistant Administrator for Water in the Environmental Protection Agency, Robert Perciasepe, who is accompanied by Terry Williams, Director of the American Indian Environmental Office; and the Commissioner of the Administration for Native Americans, Gary Kimble. I want to thank each of these witnesses for being with us today.

Before we proceed, I would like to make a few general comments. Historically, Indian programs in the Federal budget have been the first to be cut and the last to be funded. In addition, the Federal agencies that administer Indian programs have tended to be overfunded while the tribal governments have been underfunded. For the most part, these generalities are perpetuated in the President's 1996 budget request. Most Indian programs have been slated for modest increases in absolute dollars and a slightly larger percent of the total funds requested would be spent at the local level. At the same time, the funds which have been requested in the fiscal year 1996 budget reflect a net loss for Indian programs and services as stated in 1993 constant dollars.

As you can see, we have several charts around the room today. In real terms, funding for the Indian programs under the President's budget request will remain flat or decline slightly. In addition, the disparity in per capita Federal expenditures between Indians and non-Indians, which first became negative for Indians in 1985 and which has steadily worsened since then, will continue to deteriorate in the 1996 fiscal year. I want to express my gratitude to Roger Walke of the Library of Congress for his assistance in developing these charts. Without objection, Mr. Walke's narrative analysis of the President's 1996 budget request for Indian programs, along with all of the accompanying charts, will be made a part of the record of this hearing. I understand that we will not have the final work product from Mr. Walke until later this week.

[Material to be provided appears in appendix.]

The CHAIRMAN. Finally, regardless of who has been in control of the Congress or the White House during the past 12 years, I have vigorously protested the lack of support for essential programs and services for Indian and native people. I will continue along this path in the coming months and years because it is the course which makes sense and it is the only course which is consistent with the legal and moral obligations of the United States.

We would like to welcome Secretary Cisneros, Secretary of the Department of Housing and Urban Development. He is accompanied by Joe Shuldiner, Assistant Secretary for Public and Indian Housing; and Dom Nessi, Director, Office of Native American Programs. Welcome, Mr. Secretary. Please proceed however you feel most appropriate.

STATEMENT OF HENRY G. CISNEROS, SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, DC, ACCOMPANIED BY JOE SHULDINER, ASSISTANT SECRETARY, PUBLIC AND INDIAN HOUSING; AND DOM NESSI, DIRECTOR, OFFICE OF NATIVE AMERICAN PROGRAMS

Mr. CISNEROS. Thank you very much. Mr. Chairman and members of the committee, thank you first and foremost for holding this hearing today. We especially want to thank you, Mr. Chairman, for your leadership as a strong advocate for Native Americans, Alaskan Natives, and Native Hawaiians. We especially appreciate your efforts in recent years to preserve funding for HUD's Native American programs in the face of proposed cutbacks. People who care about the quality of life for Native Americans are well served by your chairmanship and the country needs to know about your special advocacy in this area.

We have been very pleased to be able to work closely with you and your staff and the members of this committee on these issues. I am delighted to be here today to discuss housing and community development issues and how the Department's ongoing study of these needs as well as the proposed budget for Native American programs will work in the next years.

As you said, sir, I am accompanied today by Joe Shuldiner, the Assistant Secretary at HUD who has responsibility for that portion of the Department that is called Public and Indian Housing. He has been a good advocate for Native American programs. One of his first initiatives was to reorganize the Native American programs that were disparate across the Department into a single effective office headed by Dom Nessi, who sits to my left. Dom is well regarded out across the country and has himself visited about 150 Native American communities. I am very, very impressed and proud of his work. With Dom's guidance, I have had the good fortune to visit a number of Native American communities myself in my tenure. Last summer, we visited in Alaska Kotzebue and the Native American villages of Selowick and Kiana. In South Dakota, we travelled to the Eagle Butte site where we participated with Habitat for Humanity in building 30 homes and visited with the leaders at Standing Rock. Also, we participated in the Albuquerque Listening Conference where housing issues were highlighted. And this month I will spend Friday, Saturday, Sunday combination at the Crow, Northern Cheyenne, Salish, and Kootenai Reservations in Montana. So we're making a sincere effort to be in places not just in good times, but also when conditions are the toughest in the winter to try to understand the housing conditions that the communities face.

I would like to give you some of the details of our budget, but I also want to share with you our approach to Native American programs because it provides an overview of what we're attempting to do in budget terms. The Department's focus on Native American programs over the course of the last year was called "Consultation 1994". Twenty-seven meetings held around the country brought together Indian and Alaskan Native tribal representatives, Indian housing authorities, and national Indian organizations to discuss with HUD changes that would improve the delivery of our pro-

grams. As a result of this consultation process, we have streamlined procedures and reduced regulations related to Native American programs by 50 percent.

Consultation 1994 reinforced something the Department knew but always needs to understand better; and that is the strong need and desire for homeownership in Native American communities. While the HOME program, and the Mutual Help Homeownership Opportunity program to a limited extent, have brought home ownership to Indian country, it has been limited to low- and moderate-income families. In fiscal year 1994, the Department implemented the Indian Loan Guarantee Program as authorized in the Housing and Community Development Act of 1992, bringing opportunity for true homeownership to a newly emerging middle class of Native Americans who desire to continue living on reservations.

Because homeownership is a relatively new concept in Indian country, the Office of Native American Programs has developed a followup consultation to our 1994 effort to be called "Native American Homeownership: The First Generation" in fiscal year 1995. We are focused on bringing HUD together with the Departments of Agriculture and Interior and Veterans' Affairs, as well as other Federal agencies involved in housing, to develop a comprehensive presentation to tribal governments, Indian housing officials, and Native American housing associations.

In fiscal year 1996, the Department will help bring Indian country even closer to the reality of home ownership and choice in housing. The Department's reinvention blueprint will allow tribal governments the greatest opportunity ever to plan for the future while meeting current housing needs in the most appropriate way for their reservation. Many tribes have needed flexibility and funding to create the infrastructure of their environment before meeting even basic housing needs. We are creating in HUD's reinvention a Community Opportunity Fund, which used to be CDBG, and an Affordable Housing Fund, which used to be our HOME Program, to make that flexibility possible. There are also tribes who have had the resources to help individual tribe members move forward to homeownership, and we will provide them the additional opportunities through that Indian Loan Guarantee Program.

No matter what a tribe's current level of need, the Department's reinvention blueprint for Native American programs will provide the opportunity for moving into the next generation. Through the creation of several funds which will be administered as block grants, nations are afforded greater flexibility in creating fiscal as well as administrative infrastructure to meet the housing needs of their members.

The next point I would like to make, Mr. Chairman, Senator, is one of which I am exceedingly proud. It is the next logical step in expanding the concept of homeownership in Indian country, to create a financial infrastructure not only for lending but for economic development and commercial financing. This administration has created the Native American Financial Services Organization, NAFSO, which will be introduced in legislation in 1995. It will facilitate secondary market activity for residential mortgages located in Indian nations and increase the liquidity of such mortgage investments.

Mr. Chairman, I know that you have had a long time interest in this, the creation of a secondary market such as Fannie Mae that operates in the country at large to buy mortgages from lenders, thereby giving lenders the liquidity to make loans for mortgages. It operates wonderfully across the country. We negotiated with Fannie Mae but it proved to be impossible for them to take their present system and have it work on reservations because of issues of title of land and ownership, and whether or not they could have sufficient collateral and so forth. So failing to do it through the standard approach, we, the Office of Management and Budget with direction from the President, have created this Native American Financial Services Organization. It was the first priority of a Native American Housing Commission that reported last year that a secondary mortgage device or mechanism be created.

Under a cooperative agreement with the CDFI, Community Development Financial Institutions Fund, the Native American Financial Services Organization will provide technical assistance and other services to Native American financial institutions which will be created and strengthened pursuant to the provisions of the community development initiative. This Native American Financial Service Organization will neither conflict nor duplicate the functions of community development banks or any other Government sponsored enterprises. It is intended to supplement the efforts of existing organizations, existing systems, and enhance the viability of financial services to Native Americans.

One other area of work I will touch on lightly has been that how often we have heard from Native American residents the need for housing construction methodologies, architecture and designs that are relevant to their lifestyles and reflect their traditions and cultures. For many years, there has been a misconception that Indian housing authorities were not permitted to develop housing that was culturally relevant. Over the last few years, HUD has taken a number of steps to dispel the myth that it was impossible to build a home which was culturally relevant using HUD guidelines for Native American residents. A number of regulatory revisions have been made which stress that the Indian housing authorities can use their own designs and construction devices and involve citizen participation. In 1994 we established a departmental Cultural Design Award to be presented each year. The first awards will be presented this spring. The award formally recognizes excellence in including cultural relevancy in the design of homes and facilities for Native Americans. In presenting awards, we will be doing more than merely honoring recipients, we hope to be setting standards and promoting cultural flexibility in design and infrastructure.

It has long been felt that there was no accurate data regarding the housing needs of Native Americans and Alaska Natives. Therefore, in January 1993, the Department initiated what has been called an "assessment" of American Indian housing needs and programs. The purposes were to evaluate housing problems and needs, assess the effectiveness of our existing programs, and compare new ways of doing things.

I want to share with you today briefly, Mr. Chairman, the findings of the study. First, the housing problems of American Indians and Alaskan Natives remain considerably more severe than those

of non-Indians in virtually every part of America. But the character of the problems varies importantly in different types of environments. Second, HUD programs have made a substantial contribution toward improving housing conditions in Native American areas and appear to be relatively well managed. However, we do lack the flexibility to allow them maximum authority over those resources. Third, reform of Federal housing assistance should concentrate on consolidating existing programs in a manner that gives tribes and their housing authorities broad latitude in planning and implementation to address local housing needs as they see fit. As I mentioned earlier, an important part of this assessment has been the acknowledgement of a need for a financing capability, a secondary mortgage capability to increase private financial liquidity in investment in Native American settings.

While many of the larger tribes take advantage of HUD's programs, the vast majority of tribal communities are smaller and overwhelmed by our programs. The nature, timing, and administration of many of these programs inhibits true planning. Because most of HUD's programs are competitive, the smaller tribes with no guarantee of funding, little administrative structure, inability to compete frequently find that they are simply ineligible. These changes that we're making, the creation of new funds, allow for consolidation and formula assistance so that instead of the nations having to apply as they have had to, they will be entitled to formula assistance. It is our intent to increase the amount of funding under these programs so that they don't receive amounts that are so small that they can't work with but funds that are sufficient to work with.

Which leads me then to the 1996 budget proposal. Fiscal year 1996 will be a very exciting year for those of us at HUD who work with Native American programs. The new program configuration that I've just described will give tribes the flexibility they have lacked in the past to address housing on reservations and provide funding to develop comprehensive plans of their own. In addition to increasing funding for new construction of approximately 3,000 traditional Indian housing units, we have pledged to increase funding to 1.5 percent from 1 percent of our existing funds. To date, Indian housing programs have received 1 percent of our Community Development Block Grant and HOME Programs. Those will rise to 1.5 percent under legislation that we're proposing, 1.5 percent of our new consolidated funds. So the money available should be larger and it will be proceeding on a formula basis as opposed to the spotty, erratic, competitive basis of today. This will provide an unprecedented \$50.1 million from the Affordable Housing Fund and \$73 million from the Community Opportunity Fund for Native American housing this year.

Over the next several years, the Department will change the system to recommend a specific dollar figure for Native American programs within each fund. The primary justification for this approach is that with the shifting and consolidation of programs, there is little relevancy to the set-aside approach. For example, the Indian Housing Program currently funds off-site sanitation facilities which accompany the construction of new housing units through the Indian Housing Program. In order to provide for continued funding

of sanitation, the Department will continue to address these needs through its consolidated funds.

As I mentioned earlier, the Department has chosen to maintain the Indian Loan Guarantee Program as a separately funded program. It doesn't readily fit into our other funds. It doesn't fit into the FHA model because the Indian Loan Guarantee Fund is established and funded separately from the FHA insurance fund. While we have not increased the budget request for capitalizing this program at \$3 million in fiscal year 1996, an increase in the credit limit will allow the guarantee of approximately 150 more home loans, bringing the total number of families realizing homeownership to about 400.

With respect to the Native American Financial Services Organization, the Department proposes to continue its efforts in support of legislation creating the Native American Financial Services Organization. Just yesterday we concluded our negotiations with the Office of Management and Budget and received authority to go forward to legislation to create this new important vehicle for bringing private capital to reservations. The importance of this structure is dramatically increased as a result of how it will interplay with the other changes that we're making. This financial services structure will strengthen the foundation for community lending in Native American communities which was not possible before now because financial institutions had no market to sell mortgages and, therefore, no way to apply liquidity. It will be a catalyst in the development of a secondary market. And when this legislation is enacted, the technical assistance contract will be funded in conjunction with the Community Development Bank initiative.

Mr. Chairman, members of the committee, I know that you have been long time supporters of this concept. We look forward to working with you to introduce the legislation. Even in a time of constrained resources and restructuring of the Government, a measure that would bring private capital to Native American environments and make a financial system work as it has worked for suburban America and urban America on Indian reservations would be we think an important contribution to the reinvention of Government, which is a bipartisan concern especially where the Native American nations are concerned.

Mr. Chairman, thank you very much for the opportunity to come and appear before you. I look forward to answering your questions and am grateful for this opportunity.

[Prepared statement of Mr. Cisneros appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Secretary. First of all, I would like to mention again for the benefit of my colleagues who were not here, Secretary Cisneros is testifying today at his request because of his commitment and concern on Native American housing issues.

Before we begin questions, I would like to ask if any of my colleagues would have an opening statement. Mr. Vice Chairman, would you have an opening statement?

Senator INOUE. I would just like to commend you, Mr. Chairman, for conducting this hearing. I am very pleased that the President and cabinet members have responded very well to the needs

of Indian country, albeit rather modestly, but it is a good start, sir. Thank you.

[Prepared statement of Senator Inouye appears in appendix.]

The CHAIRMAN. Thank you, sir.

Senator Domenici.

STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

Senator DOMENICI. Thank you very much, Mr. Chairman. I have just a very brief statement. It seems to me that the success for Indian housing is going to be more as to whether or not we can find new ways to finance Indian housing rather than the old HUD way of the Federal Government funding them. We have an old law, a 1992 housing bill which provides for alternative ways to mortgage and secure mortgages. I understand it is just starting to work. Clearly, I would hope that we would hear more about whether we can expect success in that area. I think that isn't solely the Secretary's question, Mr. Chairman, but that is a question of asking our Indian leaders whether they really want to be part of promoting non-public financed housing on Indian reservations for Indian people. If we have to wait for that to be effective, we are going to wait through our lives. We have got to get private financing in and privately owned housing in some way. I believe we're close to getting Indian leadership saying let's try more of that, but they have to make some changes in order for it to work, Mr. Chairman, some changes in their own thinking.

I thank the Secretary for coming up here. I certainly will work with you on this. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Wellstone.

STATEMENT OF HON. PAUL WELLSTONE, U.S. SENATOR FROM MINNESOTA

Senator WELLSTONE. Thank you, Mr. Chairman. Let me first of all commend you for the hearing and thank the Secretary for being here. I know we're going to have some others from the administration testifying. Mr. Chairman, just my brief apology, which is that I have just learned about a conflict. I have to go to the other side for a conference that I have to attend but I am going to try to get back. So if I leave, it is not meant to be impoliteness or lack of concern.

I have some trepidation, Mr. Chairman, about not the good faith of each and every witness here today, but more about some of the sort of decisive areas of life for Indian people and, for that matter, for people across the country where I believe investment really pays for itself over and over and over again. I really wonder whether or not in this particular period of time we are going to make the kind of investment in affordable housing or in health care or in education, investment in our children and our families, including in Indian country. I know the Secretary is trying to work within limited resources, and I very much appreciate his testimony.

The CHAIRMAN. Thank you.

Senator Campbell.

**STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S.
SENATOR FROM COLORADO**

Senator CAMPBELL. Thank you, Mr. Chairman. I apologize for being a little late. Mr. Secretary, good morning. I have a couple of questions that if I don't get around to asking I will submit for the record. But it is my understanding that you're going in the next few weeks go up to Montana and visit the Northern Cheyenne reservation.

Secretary CISNEROS. That's right.

Senator CAMPBELL. I happen to be an enrolled member of that tribe. Last summer, Ada Deer found time in her schedule to go up there with me and visit the reservation. It is probably similar to a lot of the northern ones which we sometimes call hard core reservations. I was really interested that you're going to go up there because you are going to see some housing that is substandard in anybody's terminology. You are going to see houses with no windows with just blankets across the windows to hold out a 20 or 30 degree below winter. You are going to see houses that the plumbing doesn't work and electricity doesn't work, that the walls and doors are made of such inferior quality of materials that you could punch holes through them with your hand or kick a hole through the wall with your foot. I guess I am not telling Indian people in this room anything new; they already know that. But you are going to be visiting good people in bad housing with no political clout. That's the gist of it. I just wanted to commend you for going out there and seeing it firsthand, because I don't think you ever can really get the concept or the magnitude of the problem with Indian housing just sitting in Washington in offices. You have to go out there and actually see the conditions some of the people live in. I know it is going to be an interesting trip for you and I am glad that you're going and particularly in the middle of winter. I certainly commend you for that.

Mr. Chairman, thank you for conducting this hearing.

[Prepared statement of Senator Campbell appears in appendix.]

The CHAIRMAN. Thank you very much, Senator Campbell.

Mr. Secretary, I would point out as a framework for our discussion that the 1990 Census found that 18 percent of reservation households are severely crowded; that means more than 1.5 persons per room; and the comparable figure for all America's household is 2 percent. So we clearly have a significant disparity which is not confined to housing between Indians and non-Indians in this country. I understand that 4.7 million households throughout America currently receive rental assistance from HUD. Of this figure, do you have a handle on how many are Indian or Native Alaskan households on Indian reservations or communities?

Mr. CISNEROS. I am told about 86,000, Senator.

The CHAIRMAN. That's 86,000 out of about 4.7 million. HUD proposes to consolidate \$3.3 billion in production and rehabilitation grants into an Affordable Housing Performance in fiscal year 1996. How much of this will be devoted to Indian and Alaskan Native housing in 1996, and how will this amount compare with what Indians received in 1995?

Mr. CISNEROS. The percentage we will apply is 1.5 percent, Senator. That is 1.5 percent up from 1 percent. And it is applied to a

larger base because that figure is applied to \$3.3 billion, as you said, where previously it was applied to a smaller fund preconsolidation of \$1.4 billion. So we applied 1 percent to \$1.4 million. We will now be applying 1.5 percent to \$3.3 million and it will be a much larger sum of money as a result.

The CHAIRMAN. Thank you. In your blueprint for HUD's future forecast, Indian housing authorities would "compete for subsidized and unsubsidized low-income tenants in a competitive marketplace". How does that work in areas, of which there are a significant number on Indian reservations, where there is no private rental market?

Mr. CISNEROS. We don't expect the blueprint that outlines the way public housing will work in the country at large to be applicable in the Indian nations. The fact of the matter is the problem that confronts most reservations is a shortage of affordable housing and production. So the conditions that might exist in a metropolitan area where a section 8 tenant can go and find additional housing don't exist on a reservation. We need to focus more on production, and that is what we will do with that Affordable Housing Fund and other similar approaches. So our approach on the reservations will be different than what one would expect in a metropolitan area.

The CHAIRMAN. Mr. Secretary, we all know there is not enough funds, and that is no comment on you or this administration or anyone else. But we also know that there are certain reservations that for a variety of reasons are much better off economically than others. You have visited some that are not doing well and will visit some that are in very bad condition, as described by Senator Campbell. But there are some reservations that are doing quite well whether it is because of Indian gaming or because of location or for whatever reason. Have you any thoughts about how we can make sure that the scarce funds are allocated to those reservations that need it the most and that we do not provide funds to reservations that don't need it nearly as much as others?

Mr. CISNEROS. Senator, these programs that I have described will be distributed on a formula basis. The formulas take into account need. So built into the formula distributions, as has been traditionally our Community Development Block Grant Program and our housing program we call HOME, is a tilt toward areas with the greatest need by definition. That includes income, unemployment, and other measures of need. So that is built into the formulas.

Beyond that, I would say the special efforts we will make under the Indian Loan Guarantee Program authorized in the 1992 act which was referred to a moment ago, as well as the new Native American Financial Service Organization initiative, or the secondary market mechanism, we will be working to focus their efforts in areas where the need is the greatest, where private capital can make the most difference.

We acknowledge the shortfalls in funding and are doing our very best to secure funding in the budget as well as to apply these larger percentages and so forth. But part of the answer has to be to figure out how to attract private capital that presently for legal reasons is not coming into the reservations. They can't be assured that they can end up with title to land, therefore there is no collat-

eral structure, therefore they will not make private loans. That's why we need these special mechanisms to try to direct private capital.

The CHAIRMAN. Maybe I ought to be a little more specific. Recently, a tribe that engaged in Indian gaming received \$3.5 million, according to reports, for low income housing and that tribe is very wealthy. I don't know how that comports with what you just stated.

Mr. CISNEROS. Senator, there may be some quirks or flaws in sometimes how long it takes a formula that was based on 1980 Census data to be redone using newer information about jobs conditions or the wealth of the tribe in a new environment. So it just takes a little while to sort of change the formulas and have it reflected in the distribution of funds.

But even then I would say sometimes the nations may have great success—I visited Standing Rock this summer and saw the tremendous casino that has been built there on the South Dakota-North Dakota line—but it is going to be a few years before that is reflected in personal incomes to the members of the tribe or it is reflected in money that they can use themselves. Although some jobs have been created and so forth, the lag times are not such that immediately because they have built a casino suddenly everyone has wealth that is achieved. So these formulas are going to take a while before they reflect those differences.

The CHAIRMAN. Well, I hope they will be reflected in your funding formulas fairly rapidly. Finally, your fiscal year 1996 request for Indian Housing Loan Guarantee Fund is for \$3 million to provide Federal guarantees for private loans to 400 of those 20,000 working Indian families. At the same time, I note that HUD intends to return \$112.7 million to the Treasury in fiscal year 1996 in the form of rescissions of annual contribution funds that HUD calls in excess of needs. Maybe you can reconcile that for me.

Mr. CISNEROS. Senator, I would simply say that we have been under extreme pressure from the Office of Management and Budget as well as you know from the leadership of the Congress that is budgeting based on 1995 rescission estimates. We are trying to cooperate with both our own administration as well as the new Congress in trying to meet rescission totals. There just is not another explanation for that.

The CHAIRMAN. Senator Conrad.

Senator CONRAD. What I worry about is throwing the baby out with the bath water. There is no question we have had the explosion of bureaucracy which bleeds off funds that ought to be going for other purposes. But what concerns me a great deal is we're going to find that we have gone in another direction that winds up being just as much of a disaster in the future.

Mr. CISNEROS. There is a middle ground. There is a third way, if you will, and that is what I would like to focus on quickly. What we are proposing is not so much block grants in the sort of check-writing fashion, a Federal department converted to a check-writing operation. That is not what we're proposing. What we are proposing is performance grants where the communities do a plan for what they believe they need in housing. As the Senator suggested, a housing plan that includes Native American populations in Minneapolis or Seattle and that is reflected in their plan, that 3 per-

cent of their population is Native American and, therefore, they have to have in their plan—their plan, not our plan—have in their vision of what they need an addressing of Native American needs. Then they get performance based funding that is dependent upon their ability to carry out this plan. That is not the same as just writing them a check and saying here, you use it as you will. It is a middle ground and we think it is a more sophisticated middle ground than simple saying, as the old style revenue sharing, you take the money and you do what you will.

The real question here is going to be whether we have the systems to insist on that kind of adherence to national objectives and national goals to monitor and provide performance safeguards. That is the real question of our times. I notice that this year, and I think appropriately, much of this debate has gone back to kind of original principles, historic principles. There is talk about the Federalist Papers and so forth. This tension between the Federal and the State and the local Government has been with us for 200 years. The question is have we advanced the state of the art enough to cooperate and to make sure that certain national objectives and national interests, like caring for vulnerable populations, are addressed when we send money to local communities and to States.

Senator CONRAD. I very much appreciate the answer and I think it is an excellent one. What you have done is differentiate from what is the standard block grant approach so that there is a tying together of money-raising and the spending of that money.

Mr. CISNEROS. That's correct.

Senator CONRAD. The tie that you seek to achieve is between the performance of those who receive the money and a plan that has to be approved by those who raise the money. Is that correct?

Mr. CISNEROS. That's correct.

Senator CONRAD. So there is at least a strong tie in terms of raising the money and spending the money. So in other words, we're not going to find that we sent a check out and the money, instead of going to housing goes to a bunch of folks going to a trip somewhere that has no relationship to providing housing for people?

Mr. CISNEROS. That's right. Yes, sir. Senator, we need to make sure that there are financial safeguards, we need to make sure that there are low-income targeting safeguards if the money is intended for poor people, and we need to make sure that there are national objectives written to these things like civil rights and so forth, and then we have to monitor that.

Now, I cannot tell you that there will not be abuses. That's why we have an Inspector General function in every department. Not a single week passes that even our existing programs are not abused by communities and we find someone that should have been providing low income housing using money to build a municipal parking garage because they wanted to save money in their own budget. These things will happen. But we can create a program for the vast bulk of American communities and reservations where people are given incentive to do the right thing with the money.

Senator CONRAD. I would just close it off by saying that I appreciate your response and think this is a different way of approaching block grants than we have seen in the past. Hopefully, it will prove

to be a productive way to do it and a more efficient way than either what we have been doing in terms of endless bureaucracy and, on the other hand, just sending money out there and hoping it is used for the purpose it was intended.

The CHAIRMAN. Do you want to have the last word, Mr. Secretary?

Mr. CISNEROS. Well, no, sir. Again, this is not going to be a non-controversial discussion because there are those who would argue for "unfettered devolution". I think it is going to be one of the great debates of this Congress, the issue as between what is the nature of the obligations that go with the money or whether the money just should go because we want "unfettered," uninterrupted devolution. I think it a great sort of constitutional, Federalist debate that is going to occur, and I wish you well. [Laughter.]

The CHAIRMAN. Perhaps you made at least a partial convert this morning. [Laughter.]

Senator CONRAD. Mr. Chairman, if I might, I would very much be interested in your response of what is your reaction to the notion of sending money unfettered?

Mr. CISNEROS. I obviously would be opposed to it because I do believe your point about the connection between the revenue-raising responsibility and the allocation of it is important. But I also think that there are some important national objectives. Now forgive me but you have pushed me to the point that I just have to say this. The Federal Government has always been in the final analysis the keeper of the national flame on some important ideals, like civil rights. I was just studying this last night. Believe it or not, here is a member of the administration that is following Newt Gingrich's advice and I am reading the Federalist Papers. Here is a discussion in which Madison said "civil rights are like religious rights and if they can't be protected in the white hot heat of local politics, then it falls to the higher level of Government to do that." We fought a civil war over this question of States' rights versus the national objective. We watched Federal troops be sent to Mississippi and Alabama and Little Rock on this question. And so I think there is a fundamental sort of constitutional issue here of how the Federal Government plays its sacred role of protecting the most-vulnerable Americans. And unfettered devolution won't do that.

Senator DOMENICI. Mr. Chairman, let me say when we're throwing words around, who knows what they mean. What does unfettered mean? But let me say to my good friend, I started as a mayor of a city and we had a lot of categorical grant programs. I found them neat because it was free money. They were very categorical and very specific, yet it was free money. To follow your concern, I didn't have to levy any—

The CHAIRMAN. I'm sure the Secretary had the same wonderful experience in San Antonio.

Senator DOMENICI. Correct. But just about 12 days ago I heard from a Governor who I think was being very, very honest and I think he was painting a very good picture of what happens under our current system, whatever you call it. I would choose to call it extremely fettered Government. He put six books up in front of us, Mr. Chairman, notebooks this thick, piles of three, and another pile

of papers this thick of very thin paper. Those six notebooks represented the specific regulations of the Federal Government on the State Governments regarding three programs, the lead one being Medicaid. And we think we're helping poor people with Medicaid when two of these volumes were specific detailed mandates on Medicaid. The next pile, I would guess about one thousand pages, were the additions, Mr. Chairman, in regulations to these six volumes for 1 year, for the year of 1995.

Frankly, to my good friend, none of these systems are perfect, but I submit to you that you can send a lot of these programs to the States with a very specific goal and you can say use this for, and then define who they are supposed to use it for. And by performance evaluated every two years, and we will evaluate it, frankly, I would think if that is urgent and quick devolution—to borrow the word from Dr. Rivlin; I don't like the word, I wish we would invent another one, but anyway—I think it is very much worth trying. I believe when that Governor said in final summary he has now policed his welfare workers, measured their time spent in a very orderly management role and he finds that two-thirds of the time of a welfare worker in his State goes to the paperwork mandated by these books and one-third for the welfare or poor citizen, something ain't working. You don't need the Federalists Papers in that debate to know that. It is great to read it. I haven't followed his advice; I haven't read it since college. But I may. [Laughter.]

The CHAIRMAN. Thank you very much, Senator Domenici. Perhaps we should convene another hearing on this issue. [Laughter.]

I would imagine the attendance will be pretty brisk. [Laughter.]

Let me just say, Mr. Secretary, thank you for being here. You have provided, I think, stimulus for a lot of things here. I am very impressed by your commitment. May I just remind you again, since we are talking about the Federalists Papers and the Constitution, there is a special clause in the Constitution about Congress' role regarding Native Americans and there are solemn treaties that were made with these Indian tribes which really makes them different than any other group of Americans. We want to be assured that as we go address the challenges, as Senator Domenici just described and the justifiable cynicism that my friend from North Dakota just articulated, that we recognize—

Senator CONRAD. Skepticism.

The CHAIRMAN. Excuse me, skepticism. [Laughter.]

That we recognize there is a very special and unique relationship here. As I said in the beginning, too often in the guise of consolidation or block grants or streamlining or whatever terminology you want to use, the Native Americans have been left at the end of the line. So I appreciate you being here. We look forward to working with you. And again I would like to urge you not only to stay in close contact and communication with the members of this committee, but also with the Native Americans as we move forward in, frankly, what is a fundamental restructuring of Government and its relationship with the American people.

Senator Inouye discussed yesterday with the National Congress of American Indians this whole issue of sovereignty and the relationship that Indian tribes have with the Federal Government and there is a great deal of variance of opinion as to exactly what that

is. But there is no doubt in my mind that they need the assurance that they will have those commitments adhered to and the promises kept, which unfortunately has not been the case for a couple hundred years.

Again, thank you very much, Mr. Secretary, for being here and thanks for staying so long.

Mr. CISNEROS. Thank you.

The CHAIRMAN. I would ask the next panel, Ada Deer and Michael Trujillo, to come forward. They are accompanied by almost everyone in this room, so I won't go through their names. [Laughter.]

Please feel free, Dr. Trujillo and Assistant Secretary Deer, to bring whoever you would like to have sit up here with you. Welcome, Madam Assistant Secretary. Thank you for joining us and thank you for your patience. Please proceed.

STATEMENT OF ADA DEER, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, WASHINGTON, DC, ACCOMPANIED BY MICHAEL ANDERSON, ACTING DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS; OSCAR MUELLER, DIRECTOR, OFFICE OF CONSTRUCTION MANAGEMENT; HILDA MANUEL, DEPUTY COMMISSIONER OF INDIAN AFFAIRS, BUREAU OF INDIAN AFFAIRS [BIA]; JOHN TIPPECONNIC, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BIA; DONNA ERWIN, ACTING DIRECTOR, OFFICE OF TRUST FUNDS MANAGEMENT, BIA; JOANN SEBASTIAN-MORRIS, ACTING DIRECTOR, OFFICE OF TRIBAL SERVICES, BIA; AND GARY CECCUCCI, CHIEF, DIVISION OF PROGRAM DEVELOPMENT AND IMPLEMENTATION, BIA

Ms. DEER. Good morning, Mr. Chairman, Senator Inouye, Senator Domenici, Senator Conrad, and I don't know where my good friend Senator Campbell is. Oh, there he is. Good morning.

The CHAIRMAN. We'll make sure he pays attention.

Ms. DEER. I am pleased to be here to present the President's fiscal year 1996 budget request for the Bureau of Indian Affairs [BIA]. I ask that my formal statement be entered into the record so that I may briefly highlight aspects of the budget request.

[Prepared statement of Ms. Deer appears in appendix.]

Ms. DEER. Let me say that I am recalling my visit with you prior to my confirmation and I remember very distinctly your comment about American Indians being short-changed and that you would be working to resolve that. I am very appreciative of your efforts and Senator Inouye's efforts, for working on a close cooperative nonpartisan basis to address these very serious needs.

Overall, the BIA request totals \$2.4 billion which includes \$1.9 billion for current appropriations and \$448 million for permanent appropriations and trust funds. I have some charts that will help put the budget request in perspective. Gary Ceccucci of my staff is here. The first chart compares the BIA's budget request over the past 5 years. For fiscal year 1996, President Clinton and Secretary Babbitt are asking the Congress to provide \$1.9 billion in current appropriations, the largest amount ever requested for BIA's programs.

In April 1994, the President met with the leaders of over 300 Indian tribes and Alaska Native villages on issues of national policy regarding Native Americans. This historic meeting was followed by the National American Indian Listening Conference that was jointly sponsored by the Department of the Interior and the Department of Justice in May 1994. Representatives from more than 200 Indian tribes attended. That same month tribal representatives presented their funding needs and priorities to me at the BIA's fiscal year 1996 national budget meeting. This budget request provides additional resources to respond to many of the priorities and concerns.

The CHAIRMAN. Before you leave that chart, Madam Assistant Secretary, could I ask, what is included in miscellaneous payments? The third bar graph over.

Mr. CECCUCCI. Mr. Chairman, that includes the land and water settlement payments enacted by Congress in recent years.

The CHAIRMAN. Is that the bulk of it?

Mr. CECCUCCI. And trust fund deficiency payments. They comprise most of it.

The CHAIRMAN. Thank you.

Ms. DEER. This budget request provides additional resources to respond to many of the priority concerns raised by the tribes at these meetings.

The second chart contrasts the fiscal year 1996 budget request to the enacted fiscal year 1994 and fiscal year 1995 appropriations. This request is \$163.4 million more than the fiscal year 1995 appropriations and \$131.7 million more than the fiscal year 1994 appropriations.

The BIA requests \$1.6 billion for the Operation of Indian Programs [OIP], a net increase of \$100.7 million more than the fiscal year 1995 enacted level when adjusted for the proposed transfer of funding for water rights studies and negotiations to another appropriation. The major OIP increases include:

Tribal Priority Allocations [TPA]. Tribes will be able to set their own program priorities for \$767 million or 48 percent of the total OIP appropriation. In fiscal year 1995, TPA accounted for \$521 million, or 34 percent of OIP. This increase is mainly due to the transfer of the contract support and welfare assistance programs into TPA as recommended by the Joint Task Force on BIA Reorganization. Tribes would have the flexibility to manage contract costs and to pursue welfare reform within their TPA allocation.

An additional \$18.3 million is requested in TPA for small and needy tribes, newly recognized tribes, contract support payments, operations of new detention facilities, and the Tohono O'odham Tribe to protect the natural resources of its reservation on the United States and Mexico border.

School Operations. We are requesting an additional \$32.8 million for the Indian student equalization formula, student transportation, facilities operation and maintenance, administrative cost grants, and new initiatives to enhance tribal departments of education, model schools, and statistical reporting by the schools in our system.

Tribal Self-Governance Act. An increase of \$6 million for grants to assist tribes to enter into 20 new compact agreements, the maximum number authorized annually.

Child Protection and Family violence Prevention Act. The 1996 budget request includes \$5 million for grants to tribes to better respond to these critical problems in Indian country.

Indian Tribal Justice Act. The budget provides \$5 million for start-up grants to develop and improve tribal courts.

An additional \$6.4 million to improve land records, trust funds, and arts and artifacts management, fire safety coordination, and ADP systems and training is requested for management improvement.

For the construction account, the \$125.4 million requested includes \$35 million to complete the Chief Leschi School in Tacoma, Washington, and the Many Farms School in Arizona; \$30 million to correct hazardous conditions on five dams in Arizona, Nevada, and New Mexico; \$8.9 million for a new detention facility on the Ute Mountain Ute Reservation in Colorado; and \$4.8 million to improve fire protection in schools and detention facilities.

The \$151 million requested for the Indian Land and Water Claims Settlements and miscellaneous payments to Indians account includes \$121.8 million to implement enacted settlements, including the Navajo and southern Arizona construction projects; \$14.5 million to study and negotiate future water settlements; \$13.7 million for trust fund losses, including reimbursement of individual Indian moneys account holders for interest due to investments in failed financial institutions.

The administration will propose legislation to authorize the purchase of Indian lands which have highly fractionated ownership so that these small interests can be consolidated for tribal development. The request includes \$12.5 million for this tribal land consolidation initiative. Changes to Indian inheritance laws are also needed to prevent future fractionation of ownership, an issue that divides many Indian families.

The third chart provides a graphic distribution of the fiscal year 1995 budget request. The OIP account comprises about 85 percent of the total request; settlements and miscellaneous payments to Indians at 7.9 percent; construction, another 6.6 percent; loan programs, less than 1 percent; and the tribal land consolidation initiative, less than 1 percent.

In November 1994, a national news magazine stated that "only 20 cents of every BIA dollar finds its way to the tribal or reservation level." This is not true, and I wish to emphasize this. Within the OIP account, 85 percent of the funds are distributed for services and benefits at the local tribal level. These include the tribal priority allocations, other recurring programs, and nonrecurring programs which comprise the tribal budget system. It should also be noted that BIA's central office operations and area office operations account for only 7.5 percent of the total request. This is a small organizational overhead in light of the fact that BIA is also responsible for the management and administration of over \$700 million annually in trust funds, receipts, reimbursables, and transfer accounts in addition to its direct appropriations.

The fourth chart shows the distribution of BIA's full-time equivalence (FTEs) among the agency and school level, central offices, and area offices. The BIA has made significant staffing reductions and realignments to meet downsizing goals of the administration and to actively promote Indian self-determination. As a result, BIA is more decentralized than most Federal agencies, with over 83 percent of its OIP workforce concentrated at the local agency, school, and reservation level. Consistent with the National Performance Review recommendations, I expect to reduce the BIA's headquarters functions by nearly 50 percent.

The BIA recently concluded tribal consultation meetings at 11 regional locations to further develop streamlining and reorganization plans. The results of these consultations will be shared with the tribes and the Congress in the near future.

I know that the committee is interested in the impact of self-termination grants, contracts, and compacts on the BIA's staffing levels. This graph shows that BIA's FTEs declined from 16,900 in fiscal year 1981 to 13,000 in fiscal year 1993. That was a 22.7 percent reduction over 12 years. BIA expects to lose another 448 FTEs, which is 3.2 percent, during fiscal year 1994 and fiscal year 1996 even before the streamlining plan is finalized.

This concludes my presentation. However, before answering questions, let me introduce Hilda Manuel, the deputy commissioner of Indian affairs; Michael Anderson, our new deputy assistant secretary; and then we have other people in the audience that can answer questions. We know that we have a limited space here. So that is a summary of our hearing information.

The CHAIRMAN. Thank you.

Dr. Trujillo, please proceed.

STATEMENT OF MICHAEL H. TRUJILLO, M.D., M.P.H., DIRECTOR, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ROCKVILLE, MD, ACCOMPANIED BY MICHEL E. LINCOLN, DEPUTY DIRECTOR; LUANA L. REYES, ACTING DIRECTOR, HEADQUARTERS OPERATIONS; REUBEN T. HOWARD, ACTING DIRECTOR, OFFICE OF SELF-GOVERNANCE; DR. PHILLIP L. SMITH, ASSOCIATE DIRECTOR, OFFICE OF HEALTH PROGRAMS; GARY HARTZ, ACTING ASSOCIATE DIRECTOR, OFFICE OF ENVIRONMENTAL HEALTH AND ENGINEERING; AND DOUGLAS BLACK, ASSOCIATE DIRECTOR, OFFICE OF TRIBAL ACTIVITIES

Dr. TRUJILLO. Good morning, Mr. Chairman. It is a pleasure to be here. It is my first appearance before you since entering the Indian Health Service headquarters program 7 months ago. With me this morning are Michel Lincoln, the Deputy Director of the Indian Health Service; Luana Reyes, who is in charge of our headquarters operations; Dr. Phillip Smith, who is in charge of our clinical programs and is also the chief medical officer for the Indian Health Service; Gary Hartz, who is our acting director of environmental, sanitation, and construction facilities programs.

Since my arrival at the headquarters office 7 months ago, we have begun to enter a new era of Indian health care and have been preparing the agency to go forth in that era. We have been strengthening the partnerships with Indian tribes and Indian orga-

nizations throughout the Nation and in determining how services will be changed and will be delivered in the future.

Before I go further, however, I would like to say a few words about our dedicated employees within the Indian Health Service and mention several individuals, one of whom is sitting in the audience. Howard Roach entered the Indian Health Service over 27 years ago and began our budget formulation program. He has participated in the budget hearings with both the House and the Senate for about 22 years. He has been of assistance to both the Senate and House sides in regards to the Indian Health Service budget. He is retiring the end of May and we will miss him. He has been a very dedicated employee to the Indian Health Service and for Indian people. The other is, and what we are dedicating this year to in regards to our clinical services. Three dedicated and committed employees of the Indian Health Service lost their lives this past year about this time in an unfortunate airplane crash in the Dakotas: Dr. Chris Krogh, Dr. Ruggles Stahn, and Dr. Arvo Oopik. I knew all three of them. I recruited Dr. Oopik into the Indian Health Service as a cardiologist. Unfortunately, in delivering health care in remote areas of the Dakotas during a winter storm, they lost their lives. Those are the people that signify the caring and the programs that go on for Indian people.

I believe the Indian Health Service is committed to carrying out the provision of quality health services that have been established, and again, as you have mentioned this morning, that we need to confirm these obligations in treaties, statutes, and executive orders. Indian self-determination is based upon the special and unique relationships of the Federal Government with tribal governments as sovereign nations. Because of these relationships, there is an increasing number of tribes and urban Indian programs assuming direct health care responsibility for their own programs. At the present time, over a third of the Agency's budget goes directly to tribes and Indian organizations. That will also be growing because of the new 638 contracts and the compacting that will be continued.

Tribes also have the option, in that self-determination process, to choose if they wish to receive services from the Federal Government. There is a necessity for a balanced approach and an equity in that relationship of those who do choose to go toward compacting and contracting, and those tribes who choose to remain within the Federal system of direct health care delivery programs.

The Indian Health Service is facing ever increasing costs with growing populations, as you have mentioned. New tribes are entering the system. The urban programs also are facing increased cost, increased competition. The provision of health care in rural areas that we serve, in isolated, frontier areas, have no infrastructure and many times no other health care systems available.

Our service population is unique and requires specialized methods of health care delivery. Because of the diverse cultures, families, traditions, religion, and values of Indian people it is our desire and our goal that the delivery of services by the Indian Health Service, tribal programs and urban programs are delivered in a caring, culturally sensitive, and a respectful manner. The strength and the quality of the services that we all deliver through these

programs must be appropriate for the people and the families that come to those programs.

I believe there has been significant strides in the status of health care for Indian people. There have been major accomplishments in environmental, sanitation, public health, community health programs, community outreach programs, such as public health nursing and accident prevention programs. However, all of us in this room certainly recognize that there still remains a large gap between the health status of American Indian and Alaska Natives and the dominant society. We all need to recognize that fact emphatically. All of us together must close that gap.

It is imperative, and I mentioned this in my confirmation speech last year before you, that IHS manages its resources effectively and efficiently. My goal is to design an organization with fewer layers of management, direct resources to the local communities and programs and Indian people, and recognize that operations must become more efficient and effective. Fewer layers of management will reduce overhead functions within the Agency and, therefore, we could look to redeploying positions and staff to local programs. Primary among these goals is to assure that community health and patient care comes first in all the services that we deliver, and to recognize that the strength of the Indian Health Service and the Indian Health program is the government-to-government relationships with tribes and that the Indian Health Service indeed underlines the Indian portion of that agency title.

The design for a new agency and a new program must be undertaken through partnership with Indian tribes and organizations. We must reaffirm in that process the sovereignty of Indian nations and the right of Indian people to quality health care programs. This year, we will emphasize programs in elder care, youth substance abuse prevention, child abuse prevention, women's health, and epidemiology. We must continue to maintain the accomplishments in elevating the health care for American Indians and Alaska Natives. With Indian tribes and organizations and programs, we will work to provide the best health care delivery system in the country. We need to work with other Federal agencies, foundations, medical health care systems, and local and community organizations to assure that there is access to quality of care at all levels.

The President's budget as it is proposed is \$2.3 billion for the Indian Health Service, a 4.5-percent increase over fiscal year 1995. I do appreciate the committee's concern last year in regards to the administration's budget and the effective restoring of the funds to the Indian health programs. Some \$2 billion of the \$2.3 billion is for health services, and \$247 million for health facilities. We have \$10.5 million to further emphasize, as I said earlier, women's and elderly health care programs, child abuse prevention programs, urban health, and epidemiology programs.

The Indian Health Service agrees with the current efforts to increase the efficiency of Government and to put the resources at the local level and with local control. However, I think I need to caution that in applying broad brush strokes to programs such as those of restructuring, in the zeal to downsize, in budget reductions, and consolidation or elimination of programs, tribal nations and Indian organizations must be included and must be at the

table when these issues are discussed. In my travels through Indian country and in meetings with Indian tribal leaders and organizations, they have brought forth their concern regarding the already inadequate resources addressing Indian health care and the critical needs that we all recognize. They are concerned that further reductions will adversely impact Indian people. National Performance Review [NPR], waivers to States, and block grants to States should not go forward unless Indian tribes and organizations are involved and concur with that process. If they are not involved, where is the listening and the harmony that we often talk about? The ramifications of any change in the delivery of Federal services requires extensive consultation and involvement with the sovereign governments of Indian nations. This is our obligation to Indian people.

When the sun comes up tomorrow morning, my family will be there, my relatives and other brothers and sisters will be there. But when the sun comes up tomorrow and the dust settles from the restructuring, the downsizing, the block grants, and the proposed consolidation of programs, can we go home to our grandfolks and children and say that we did a better job? Thank you very much.

[Prepared statement of Dr. Trujillo appears in appendix.]

The CHAIRMAN. Thank you very much, Dr. Trujillo, for a very strong statement. I know the committee shares your appreciation for the service of Howard Roach, and our deep sorrow over the tragic loss of those three committed, dedicated Americans who spent their lives helping others who were less fortunate in that tragic plane crash.

I would like to withhold my questions and would ask Senator Inouye to proceed.

Senator INOUE. I thank you very much, Mr. Chairman. I believe all of us here agree that there is a unique relationship between the Government of the United States and Indian nations. In recent times, I believe that most Indian nations have come to look upon the BIA as the special link to bring about the implementation of this unique relationship or trust responsibility. And so though it is a small Agency, in the eyes of Native Americans it is the U.S. Government.

Having said that, Madam Assistant Secretary, I note that in your statement, your last section referred to your 11 regional conferences to discuss BIA reorganization and realignment plans. You did not elaborate upon that, but I should tell you, if you do not know by now, that I have been in receipt, and I am certain that the Chairman has been in receipt, of numerous letters and calls frankly being very critical of these meetings. For example, about there have been complaints that half of the meetings lacked proper representation. They said the Assistant Secretary was not there. Second, in at least two instances, we have been told that the tribes received the administration's proposal the morning of the meeting, literally a few minutes before it convened. At one regional conference, I was told all of the tribal leaders walked out.

I want to give you an opportunity to tell the committee what happened because apparently as a result of these shortcomings this process has been temporarily set aside, nothing is going to happen. Obviously, Indian nations are concerned. Can you tell us what In-

dian nations can reasonably anticipate from their major link to our national Government?

Ms. DEER. Yes; you raise a very current, high profile issue, Senator. Let me say that being part of the administration and in compliance with the NPR, we were attempting to carry out the instructions and requirements of that process. In consultation with the Secretary, it was decided that there would be an extension of this process. Most Federal agencies had to complete their requirements in November 1994 and we received a 2-month extension.

So to make a long story short, we did, on a very short timeframe, schedule consultation sessions in all the areas of the BIA. I took part in half of them and we also had other team members participating. Unfortunately, I could not be everywhere at once; I feel that this is one of the frustrations. We completed this process just last week. We had team members, the area directors, and others involved in this trying to come up with a plan. We know that this is a very controversial issue among the tribes. Therefore, in further discussions with the Secretary's staff just yesterday, it was decided that we would set those options aside and that we would proceed with this under the two existing provisions, that is under the Public Law 93-638 contracting authority and the self-governance authority. The tribes will proceed using those two. It will not be necessary to conform to the options that were discussed in these 12 regional meetings.

Hilda Manuel, my deputy commissioner, was also involved in this process as a team member and she can give you some additional information. But that is the essence of it. We are going to set aside the streamlining plans and use the Public Law 93-638 contracting and self-governance authorities to accomplish the downsizing objectives for the coming year under the NPR.

Ms. MANUEL. Senator, my name is Hilda Manuel. I want to elaborate on what the Assistant Secretary has stated. We were concerned early on that we were not going to be able to consult adequately with the tribes. In fact, in early December we conveyed our concerns to the Secretary but indicated that we were prepared to go out throughout the month of January to discuss with the tribes the NPR objectives, and the options that the BIA had developed under the constraints that it was mandated to observe.

When we completed the consultations at the end of January, I convened the area and central office directors in Washington to review the transcripts from each of the consultation meetings and to review the directive that we had been provided by the Office of Management and Budget. We had to come up with some type of an implementation plan that would incorporate the tribes' concerns and comments but at the same time meet the FTE reductions, which is the bottom line objective that OMB has with regard to the National Performance Review.

At that time, we did discuss the very clear message that the tribes throughout the 12 areas presented to us as we explained to them what we were asked to do. The tribes opposed the reductions, especially if the savings that resulted from any reductions could not be redistributed back to the tribes so that they could reinvest them in their local communities. They were also opposed because, as this committee knows, tribes have always been concerned about

the low level of funding that has been provided to them through the operation of the Indian programs account. The tribes were concerned that the reductions that were to occur as a result of the NPR would, in fact, not be returned back to them and would be returned to the U.S. Treasury to cover the deficit.

In discussing these options with the area directors, we did develop what appeared to be the only two viable options with which we were faced. One was to show the tribes that if we stayed in line with the Task Force recommendations to allow the tribes to design their own areas, they would still have to bear the burden of the 50-percent reduction in staff that OMB had mandated, but it would provide them at least some measure of control over what their areas would look like. And this is what the Task Force recommended with respect to the areas, although I don't believe at the time the Task Force made this recommendation that they anticipated the administration's NPR requirement to absorb these cuts. The other option on which I am sure you have received many letters from tribes is the concept of regionalizing from 12 to anywhere from 8 to 6 regions. At some point we were hearing that there was discussion here on the Hill of going to 4 areas.

We did make presentations regarding those two options to the Secretary's office yesterday afternoon in anticipation that the National Congress of American Indians [NCAI] executive council meeting. NCAI has reserved time for us to appear before them today at 3 o'clock to present to the tribes present at this meeting, the final plans that the BIA had developed as a result of the consultations. I explained to the Secretary's staff our concerns that there was serious opposition by the tribes. The Assistant Secretary and Deputy Assistant Secretary concurred and we conveyed that message to the Secretary's staff. We were successful in convincing the Secretary's staff, at least for the time being, that we can continue to consult with the tribes, not on a specific restructuring plan under NPR, but on designing a restructuring proposal around self-governance and self-determination authorities.

Senator INOUE. I would like to make an observation. Chairman McCain and I were invited to address the NCAI conference yesterday and at that conference the clear impression that I received, and I am certain that the Chairman received, was that meaningful consultation was not afforded to the tribes. And as a result, at this moment I believe tribal leaders are meeting to come forth with their own proposals. Now are you going to meet with them?

Ms. MANUEL. Yes; we have a meeting scheduled this afternoon with the NCAI tribes who are here.

Senator INOUE. Are you satisfied that you have consulted with the tribes?

Ms. MANUEL. No; there is no question that the short timeframes that we were asked in which to deliver a plan were not going to be adequate to actually get the input that the Assistant Secretary and certainly the Deputy Assistant Secretary and I believe we need to have in this effort to design or restructure the BIA.

I believe the Secretary is quite interested in BIA reorganization and has on two occasions met with the tribes in California and in Oklahoma to discuss the recommendations of the Task Force on Reorganization. He does express a great deal of interest in looking

specifically at the recommendations that the Task Force made concerning restructuring, not only of the central office but throughout the BIA. I think that whatever plan we develop to implement the P.L. 93-638 contracting and the self-governance objectives will get us within the NPR guidelines. The Secretary's office has committed to participating in the negotiation with OMB with respect to exempting us from the NPR.

Senator INOUE. Mr. Chairman, I have several other questions for the BIA but, because of time, may I request that I be permitted to submit them in writing to the agencies. I would like to join you, Mr. Chairman, in your word of commendation to Mr. Roach. As chairman of the committee for the past 8 years, I have had repeated occasions to observe that he has been extremely helpful to this committee and I wish him the very best in the years to come.

Dr. Trujillo, just a short question. I think it is common knowledge that your doctors get paid much, much less than Veterans Administration [VA] doctors.

Dr. TRUJILLO. That is correct.

Senator INOUE. I think it is about \$20,000 less. Is there anything in your budget to assure that your doctors who go through medical schools like the VA doctors, are compensated at a rate that is closer to that of the VA?

Dr. TRUJILLO. We have a loan repayment program that assists the physicians who are coming into the Indian Health Service in their first years of service. The other is a new authority through the Department and we have been working on a title 38 payment structure that the VA utilizes within its medical care programs. We have just received recent authority to assess the implementation of that. We will be developing the implementation plans as well as costing out the actual cost to implement the system for direct health care delivery providers.

Senator INOUE. As Indian leaders have told us on many occasions, there is a contract with America, but the first contract that America ever made was with Indians. I think that contract should be carried out in the best way possible and I think we should provide the best medical services. You are not going to attract the best physicians by paying \$20,000 less than the VA. I hope that you will do everything in your power as head of the Indian Health Service to insist upon that.

Dr. TRUJILLO. Yes; I will, Mr. Chairman. Thank you very much. And, thank you for your support.

The CHAIRMAN. Senator Domenici.

Senator DOMENICI. Thank you very much, Mr. Chairman. I want to first commend you for something that is in this budget and I regret to say that probably the rest of my comments will not follow in the same pattern.

Last year, a very enterprising investigative reporter in Albuquerque named Larry Barker found something. He found a very inconsistent set of statements within the Bureau with reference to whether our Indian schools and dormitories were safe from fire or not, whether we had fire preventive equipment and the normal things that protect our schools. Mr. Chairman, he found two very inconsistent statements. He found a statement to the House Committee on Appropriations that said

The committee has been assured that all serious health and safety concerns have been, and will be, taken care of within existing funding levels.

And then internal to the BIA there was a report in June 1994 that said the following:

The Bureau is not currently providing adequate funding, training, and equipment to provide required fire protection services. The current status of the Bureau fire protection presents severe exposure for the Bureau from possible injury and loss of life, substantial property loss, tort, and OWCP claims.

Actually, the Secretary acknowledged the inconsistencies and acknowledged that there was a very serious almost crisis situation with reference to fire protection. I want to say a report is due in March as a result of those investigations and your own, but you have gone ahead and put \$5 million in this year's budget to begin to make sure we have the typical fire protection and fire safety apparatus and personnel within our Indian facilities on Indian reservations. Would you comment just briefly on that and then I will proceed to other issues.

Ms. DEER. Sitting in my position, it is a constant battle. I feel like I am always robbing Peter to pay Paul. I acknowledge the seriousness of the situation and, as you can see, we are requesting money to alleviate it.

Senator DOMENICI. Thank you very much. Let me tell the Chairman and the Vice Chairman that when I was first elected to the Senate, I came very committed to do something for the Indian people that they asked me to do. It was the forerunner to what we're talking about today when we say let's put some devolution into our process and send some power down to the States and cities. My first commitment was to see what I could do to get rid of some of the thousands of pages that make up the BIA manual. I don't recall how many pages there were then but they were voluminous. In fact, it was said then that whatever answer you would like you can find it within the BIA manual. I notice they are chuckling because it was true then and it is true today. That Governor who gave us six volumes, I regret that I did not ask somebody to bring the volumes that make up the BIA manual but I suspect that they would not fit end to end on this entire dais. That means that everybody is equally confused about what they can do and can't do. It is a mess for the Indian people.

So I would submit that any reorganization and any efforts on your part, and I join you in whatever reorganization you work on, we ought to make a very simple commitment that we're going to wipe out perhaps 75 percent of that manual by making things consistent rather than as confusing as they are now. So we have our own problem of deregulating the BIA. You can't come up here and complain about it, although I would think that anybody talking about reorganization would note that it is far too difficult to get things done because of this evolving process that is nothing more than a series of regulatory issues encapsulated in manuals and, incidentally, all of them are valid. It is also very interesting because I believe I am correct in saying some Indian lawyers in one part of America looking through it will find one answer and in Arizona or New Mexico they may find another. I notice you are at least nodding your affirmation. Would you care to briefly comment?

Ms. DEER. Yes; I feel that, in line with what Secretary Cisneros said, we are in a very interesting and intriguing time in our his-

tory. We have a moment in history now to make some significant changes. I welcome and greatly appreciate your observation about the BIA manual. I was a young social worker many years ago in the BIA in Minneapolis and my orientation consisted of sitting me at the desk and putting the manual in front of me. I looked at this and I said I will read this later. Actually, I never did read it because I can think.

Senator DOMENICI. I have three other questions that I will do very quickly.

Ms. DEER. So again, yes, we need to revise and to update and to streamline the manual.

Senator DOMENICI. Let me be far more forthright about this administration and the Indian problems in our country. We have the same song and dance here today as we had last year. Last year was Indian health. We made a mistake, said the administration, in decimating Indian health. Now we have a reorganization plan that isn't even hot off the press and you come before us and say you are abandoning it. I really don't know what all that's about. I don't understand how in the world we are representing Indian people and do things like that, especially, Mr. Chairman, since there is a two and a half year study commission which we funded on the reorganization of the BIA. In fact, a New Mexico Indian leader, Wendell Chino heads it up. It is almost finished and it has not even been looked at to my knowledge, this so-called reorganization. Certainly, they didn't think you carried it out. Maybe you looked at parts of it.

Ms. DEER. I would like to state that the team within the Department of the Interior and the BIA did examine and take into strong account the Task Force Recommendations. This was a joint tribal-BIA task force with both tribal people as well as BIA people on this task force. There were about 44 recommendations and we have incorporated many of the task force recommendations into the streamlining plan. There were only about 4 or 5 with which we did not agree.

Senator DOMENICI. I hope that the Indian leaders will lend the same kind of credence, that their report by them will be seen as part of this reorganization or whatever we ultimately do.

The CHAIRMAN. Senator Domenici, could I just add a little bit of my knowledge on this issue.

Senator DOMENICI. Of course. Certainly.

The CHAIRMAN. I do not disagree with what Assistant Secretary Deer said, but the fact is that the Indian leadership do not believe that their input was incorporated in the BIA streamlining proposals. That had to do partially with the answer to Senator Inouye's questions. What we need, obviously, is some better communication. If you are in agreement with all but four or five of their recommendations, Madam Assistant Secretary, there is a problem here, a communication gap that we have to close because Senator Inouye and I were told yesterday at the NCAI meeting that there was strong disagreement with the final BIA product. So I think we have got a hurdle to overcome there. Thank you.

Senator DOMENICI. I think you said it better than I. I want to also say to the committee and to the administration leadership my best intuition tells me that whatever reform is going to occur or

streamlining is probably going to occur in the appropriations bill for Interior. I don't see any chance that we're going to get a major reform bill through both houses of Congress. As a consequence, we need some unified approach to what we really need and what we can do without because I can't believe that there are going to be substantial increases and we have got to find some ways to streamline and make the dollar go further with one exception, and that gets to my next witness.

Mr. Chairman, I want you to know in the budget process and in appropriations that I consider Indian health to be a very, very special commitment of this Federal Government. I don't see any way that we can do anything other than fully fund what you have asked for and perhaps in some areas do more. I have talked to the appropriations chairman about Indian issues, that is the new chairman of that subcommittee, and I told him whatever you are doing in Indian affairs, you just better be careful on Indian health because that is a serious commitment and we can't run around the country talking about better health care for Americans and then not live up to this commitment.

Having said that, could I give you an observation, Dr. Trujillo. First, thank you for what you're doing. You are doing an excellent job. I am very worried about the enormous suicide rate among our Indian people, especially young Indian people, men and women. It is going absolutely through the roof. I submit that we can't fix that just with Indian health because it is a phenomenon in America that is occurring because of drugs, alcoholism. But I would tell you that there is a big tie from what I've read, and I would like your impression, between suicide and depression, however the depression comes, whether it is a result of something physiological, biological, or whether it is from drugs or alcohol. I believe it is very important that Indian health look to the best mental health providers in this country and see if they can help you devise more emphasis on mental health care, including those doctors who diagnose and prescribe medicines for things like depression.

I don't know where you are on it, but let me tell you that one area that I have been less than pleased with as I visit three hospitals in my State is the way psychiatric help is made available and the way various drugs are made available that are in the marketplace for everybody else. For clinical depression there is a very significant use of drugs that work. In fact, it is common knowledge that lithium, which is just another kind of salt—if you look on that atomic chart, lithium is right after sodium so it is the same thing, lithium chloride—that it has an efficacy rate above 80 percent. I would ask you if you would please tell us that you are going to make an extra commitment in this area because I think it will show up in lowering the suicide rates. Could you speak to that for a moment.

Dr. TRUJILLO. Thank you for your concern. I do agree that there is a major problem among Indian youth regarding suicide, depression, and mental health. It is a complex problem, as you have cited, in that it is multifaceted. It involves economics, it involves social service, it involves education, and it involves the cultural and aspects of spiritual well-being.

In regards to the Indian Health Service, that is one of the areas where we do want to initiate some additional programs or build upon other agencies as you're mentioning, increase connections with mental health programs who are qualified, who are renowned in this area, as well as looking at the aspects of the after care treatment. What do people go back to, where do the children go back to, what do they have to come back to, and how are we enabling them to continue to be well. Those are the issues we have major concern about not only within the Indian Health Service, but with tribal programs, local and community services, and the States, who also have a responsibility in regards to the treatment of Indian youths. This is an area which I hope we can do much better in because it is such a major problem plaguing our youth.

Senator DOMENICI. Mr. Chairman and Senator Inouye, I wonder if you would object to my asking the Indian Health to report back to us in, say, 6 months on an evaluation of their mental health programs as it applies to depression and other illnesses of that type? I don't think we need to give you a lot of money, but if you need some we will put it in a line item in appropriations. I would like for you to give us an evaluation. And would you use some good schools, like Dr. Keith is down there in New Mexico now, he used to be at NIMH.

Dr. TRUJILLO. Yes; That's right.

Senator DOMENICI. Maybe they could tell you here's a program and here's what it might cost and then you could tell us.

Dr. TRUJILLO. Senator, we won't refuse a check. [Laughter.]

Senator DOMENICI. Well, you can always do it without. [Laughter.]

If not, we'll do it. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Dr. TRUJILLO. Could I say I really appreciate Senator Domenici and all of you talking to the appropriations. I would say continue.

The CHAIRMAN. Thank you. Senator Conrad.

Senator CONRAD. Thank you, Mr. Chairman. I am wondering, Ms. Deer, if you could tell us what percentage of the BIA budget actually gets out to helping individual Indians versus how much gets soaked up in the bureaucracy. Have you got any notion of that?

Ms. DEER. Yes; 86 percent of the moneys in the Operation of Indian Programs account, that is the largest account in the BIA, goes directly to the tribes and to the agencies.

Senator CONRAD. That would be one account. In terms of the total budget, how much of the total budget that goes to BIA—what is the total budget this year?

Mr. CECCUCCI. About \$1.75 billion this year. In addition to the OIP account, of which about 86 percent goes to the tribes and agencies; the other major appropriations are in construction which supports improvements in schools, detention facilities, irrigation projects on reservations; miscellaneous payments for land and water settlements which are deposited into accounts for the tribes; the tribes can draw down the principal and interest under the conditions of the laws; and also direct loans and loan guarantee programs. So more than 86 percent of our total budget is made available for benefits immediately to the reservation level.

Senator CONRAD. So your answer would be and your testimony would be that more than 86 percent of the \$1.75 billion goes out.

Mr. CECCUCCI. Another way of looking at it is of our total appropriations, our administrative costs, that is, our central office; area office operations; comprise no more than 7.5 percent of the budget. Then we have some pooled overhead costs which consist of another 3.5 percent.

Senator CONRAD. What are the pooled overhead costs? What do they represent?

Mr. CECCUCCI. They are largely payments to other Federal agencies. We have to reimburse the Department of Labor for unemployment compensation paid to Federal employees, workmen's compensation payments, General Services Administration for the rental space that we use, and so on.

Senator CONRAD. So it would be fair to say from your testimony that more than 85 percent of the money that is in the BIA budget request of nearly \$1.8 billion would go directly to improving life in Indian country? Go directly?

Ms. DEER. Yes.

Mr. CECCUCCI. Yes.

Senator CONRAD. I thank you for that.

Mr. CECCUCCI. I would add to that, Senator Conrad, last year, 54 percent of our total obligations in the OIP was awarded under Public Law 93-638 contract, grant, and compact agreements. These were awarded to tribes that contracted to operate the Federal programs.

Senator CONRAD. That's a good point as well. Dr. Trujillo, you have a very difficult challenge. One of the elements of that challenge is the extraordinarily high rates of diabetes in the Indian population. Can you give us a thumbnail sketch of what the experience is with respect to diabetes at this point and whether or not any progress is being made.

Dr. TRUJILLO. It is still rising among Indian people, as you noted.

Senator CONRAD. Still rising?

Dr. TRUJILLO. It is still rising. We have established regional diabetes centers in most our area programs which coordinate services and have preventive as well as direct health care services at the primary, secondary, and tertiary aspects of care. We are also coordinating with the other agencies such as CDC and NIH in regards to some basic research and epidemiology statistics.

The areas of concern, of course, are looking at communities. How communities can look at themselves and individual families so that prevention really does occur. I recently attended an opening of a new dialysis center and my comments were that it is nice to be there but I would rather attend the closing of a dialysis center because of the community preventing the complications of end stage renal disease. It is a rising problem in Indian country. We are coordinating with health care programs and other health centers in regards to the secondary and tertiary aspects of that disease. The major impact of prevention will be because of community involvement and individual commitment so that there is exercise, there is appropriate diet, and there is a commitment for a healthy lifestyle.

Senator CONRAD. I thank you for that and I urge you on. I see it as an incredible problem in the Indian community and it needs

to be addressed. Let me followup with a matter that I raised at your confirmation with respect to hospital facilities that treat Indian people and then are reimbursed. We have had a long-standing problem in that regard with respect to the backlogs of those facilities that have extended services and then not been reimbursed on a prompt basis. Can you tell us what the status of the backlog is to those facilities?

Dr. TRUJILLO. At this particular time, I don't have that figure. But we can get that report to you. We are working on the contract health service aspects in each of our areas as well as headquarters regarding the backlog and administrative processes. In some of our areas, we are also working with hospitals and providers regarding a rate quote process in which there is a financial system that is much faster in regards to the prompt payment process.

Senator CONRAD. I would ask that you get me that information. Specifically, I would be interested in Mercy Hospital in Devil's Lake, whether or not that facility has been brought up to date or what the status of that is.

Dr. TRUJILLO. My understanding, Senator, was that the area office did meet with the administrators of that program and have downsized the amount of backlog that was there. At this particular time, I don't know how much remains of several years past.

Senator CONRAD. If you could get that for me, I would be very interested in that.

Dr. TRUJILLO. No problem.

Senator CONRAD. Ms. Deer, if I could turn to you for just a moment. Tribal colleges, I am convinced, are one of the most positive things that's happening in Indian country. I have attended graduations and I have seen in the faces of people there the kind of hope and the kind of positive value that those facilities have provided. Can you give us some indication of your commitment to tribal colleges and how that is evidenced in this budget submission.

Ms. DEER. I have a very strong commitment to education. I am a senior lecturer on leave from the University of Wisconsin, Madison, American Indian studies program and school of social work. Let me say that if I were running the world, I would probably put everybody back in school and that would solve some of our problems. I believe there has been an increase in this year's budget of \$500,000 to \$600,000.

Mr. CECCUCCI. The amount requested in the fiscal year 1996 budget is the same as requested in the 1995 appropriations. For fiscal year 1995, Congress added about \$600,000 to the Tribally Controlled Community Colleges line. We're continuing that increase in our 1996 request.

Ms. DEER. There is a very great need out there for this. It has been very successful. There have been independent studies by foundations approving and validating the success of the Tribally Controlled Community Colleges. One of their severe problems is inadequate funding. We would appreciate your assistance in improving the moneys for these schools.

Senator CONRAD. I really think it is a top priority. I think if there is one thing that I have seen that really offers hope, it is these tribal colleges. And I thank the witnesses and I thank the Chair.

The CHAIRMAN. Thank you very much, Senator Conrad.

The hour grows late so I will submit questions to both Dr. Trujillo and Secretary Deer. But I think this is an important point, Dr. Trujillo, which should be raised. Your budget request indicates that IHS will lose over 160 FTE positions in streamlining and other reductions not related to tribal assumptions of IHS functions under compacts or contracts. This represents 9 percent of the total 1,766 FTE reductions to be taken by the entire HHS Department. Yet, IHS' budget is only 1.8 percent of the HHS total budget. Last year, the administration proposed similarly disproportionate FTE cuts for IHS and then changed its mind under tribal pressure and sought additional funds from Congress. Why are we going through this again, Dr. Trujillo?

Dr. TRUJILLO. At the present time, what we have been working with is within the ceiling limitations that were presented by OMB and the administration to the Department. Dr. Lee, the Assistant Secretary of Health, Secretary Shalala, and I also met with OMB—

The CHAIRMAN. Did OMB impose reductions from the Indian Health Service?

Dr. TRUJILLO. The ceilings were discussed with each of the Departments. We then worked within those ceiling within the Department. However, because of the negative impact that we felt that would occur and because the Department and the Assistant Secretary and also, I believe your letter from the committee to the OMB and the Secretary, we were able to negotiate and get relief from the ceilings so that we did get an increase of 1,138 for fiscal year 1995. The ceiling limitation that was previously proposed is no longer there.

At the present time, we are working within a FTE ceiling that will permit us to go forward over the next several years to restructure the Indian Health Service. However, within that FTE limitation, we will also have to fund or provide FTEs to some new facilities, for example, Kotzebue and Hayes in Anchorage, since new FTE's have not come down to these new facility programs.

The CHAIRMAN. Let me clear this up. Are you or are you not going to lose 160 FTE positions?

Dr. TRUJILLO. In regards to looking at the numbers, I believe we are streamlining. There are some affiliation agreements and there are some reductions. At the present time, our FTE ceiling for 1995 is 15,465. Next year we will be looking at 15,235 ceiling positions.

The CHAIRMAN. I will repeat the question, Dr. Trujillo. Are you or are you not going to lose 160 FTE positions in fiscal year 1996?

Dr. TRUJILLO. We are going to be looking at a total of 230.

The CHAIRMAN. I believe, if my facts are correct, that again the administration is imposing larger cuts on the Indian Health Service than the rest of the Department of Health and Human Services. If that is not correct, I would appreciate it if you would give me the additional information that would correct that impression.

Dr. TRUJILLO. We will forward that information to you, Senator.

The CHAIRMAN. Assistant Secretary Deer, you know, charts and graphs are always interesting, sometimes misleading. I appreciated your charts. I thought the room looked real nice with our charts up there. [Laughter.]

Let me just point out we chose the year 1975 as a beginning for the consideration of the budgets for Indian programs. We chose that year not because of the fact that it would skew the statistics, but that covers both Republican and Democrat administrations as well. And the overall result of that analysis is that in real terms we continue, and I am not saying that as a criticism of next year's budget, but we continue to reduce our spending for Native Americans. I believe that we need to reverse that now over 20 year trend. That's why we are going to have hearings, as you know, early in March and look at the entire structure of the BIA, how it performs its functions, how we can streamline it using primarily as a basis the recommendations of the tribal task force that was referred to by both my friends from New Mexico and Hawaii. I am glad to know that there are only a few areas of disagreement between you and the recommendations of the tribe. But we're also going to set some time lines to implement some of these changes. And we also think that it can be extremely helpful to have your active participation. I say that I am very pleased to note that Secretary Babbitt is committed also to this endeavor. I harbor some hope and optimism that perhaps we can make the necessary improvements that would help us to better serve Native American people.

I have a number of questions I would like to submit for the record. The hour grows late today and I apologize for keeping you all so long. I look forward to working with you.

If there are no further questions? The Senator from New Mexico?

Senator DOMENICI. Mr. Chairman, if I could just ask two questions. Secretary Deer, I have sent to you for comment S. 346 which Senator Inouye and I have supported. Last year I sent you a comparable bill. Six months after you got the letter you referred it to your regional people. I still don't have an answer. Could I assume that you might answer this one a little quicker?

Ms. DEER. Yes.

Senator DOMENICI. One last question. Mr. Chairman, you are familiar with the Navajo Nation's new president's ideas about decentralization of the delivery system in Navajo country. I would hope, Secretary Deer, that you would work with the new president, and if there are some things we have to do to help with that decentralization effort or any pilots or trial runs that they want to make, if there is anything that we need to do to make that more successful, would you advise us so that we could make room for that in our appropriation process by letting them try some of these things?

Ms. DEER. I will be very happy to do that. I attended the inauguration of the new president and his Navajo Nation council members. I look forward to a close working relationship with the new Navajo leadership. I will consult with you and your staff on this.

Senator DOMENICI. Thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Thank you all. Without objection, the committee will be submitting additional questions to each of the witnesses for response by February 24. The questions and responses will be made a part of the record. Thank you.

[Additional questions submitted by the committee and witnesses' responses thereto appears in appendix.]

The CHAIRMAN. The next panel is Robert Perciasepe, Dr. Thomas Payzant, and Gary Niles Kimble. Could I say to the witnesses I have a proposal for you. The hour is now 12:15. There is usually a policy luncheon for both Republican and Democrat Senators that begins at 12:30. If we proceeded at this time, your testimony would obviously be dramatically shortened because we would have to adjourn at sometime around there. I would propose for your consideration that we hold your testimony in abeyance and call you back in 1 week or so as soon as we can schedule another hearing, because I am afraid that your important testimony may be lost here because of other obligations on the part of members of the committee. Do you have any comment or statement in that regard? What do you think of that idea? Is that agreeable to you?

[General consent expressed by the panel.]

The CHAIRMAN. I have read your statements. I think they are important. I think that as many members of the committee as possible should hear those statements and I am afraid that we would not do justice to the important information you have if we didn't adjourn at this time.

Do you have any views on that?

Senator INOUE. Mr. Chairman, I would like to thank you for this decision because I concur with you. The matters before us are very important. I have a few questions I would like to discuss with the panel on Native Hawaiian education and health, obviously. And so I most wholeheartedly approve of your plan to reschedule this panel.

The CHAIRMAN. Good. So we will let you know sometime today and we will begin with this panel at the next hearing that we conduct. I want to thank you for your patience. I think you would agree with me, however, having been here this morning, that the discussions that were held were of significant importance and worth our time, as well I hope as yours, as to the very important issues before this committee and the Congress and the American people. So thank you and I apologize for shortchanging you. I think in the long run, however, the committee and the American people will be better served if we do delay your appearance until the next hearing. Thank you very much.

[Prepared statement of Senator Reid appears in appendix.]

The CHAIRMAN. This hearing is adjourned.

[Whereupon, at 12:17 p.m., the committee was adjourned, to reconvene subject to the call of the Chair.]

BUDGET REQUEST FOR FISCAL YEAR 1996 FOR INDIAN PROGRAMS

THURSDAY, FEBRUARY 16, 1995

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9 a.m. in room 485, Senate Russell Building, Hon. John McCain (chairman of the committee) presiding.

Present: Senators McCain and Inouye.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. This hearing will come to order.

On February 14, the committee received oral testimony from three administration witnesses representing HUD, BIA, and IHS concerning the President's budget request for 1996 fiscal year.

This morning's hearing has two basic purposes. First, the committee will receive testimony from the remaining administration witnesses the committee was unable to reach after 3 hours of testimony 2 days ago. Testifying on our first panel will be Gary Niles Kimble, Commissioner for the Administration for Native Americans [ANA], and Terry Williams, Director of the American Indian Environmental Office within the EPA.

For its part, the Department of Education was unable to reschedule any official to appear at today's hearing, but, without objection, we will submit written questions to the Department for response.

[Written questions and the answers thereto, appear in appendix.]

The CHAIRMAN. Our second and third witness panels will be made up of representatives from Indian tribes and tribal organizations. On the second panel will be Gaiashkibos, president of the National Congress of American Indians, and chairman of the Lac Courte Oreilles Tribe in Wisconsin, who will address the BIA budget requests; and Julia Davis, executive director of the National Indian Health Board, who will address the IHS budget requests.

On the third panel will be Jacqueline Johnson, chairperson of the National American Indian Housing Council, who will testify on the HUD budget request concerning Indian housing; Lorraine Edmo, executive director of the National Indian Education Association, who will address the budget requests of the Department of Education and the BIA concerning Indian education; Jerry Pardilla, executive director of the National Tribal Environmental Council and former Governor of the Penobscot Nation, who will address the EPA budget request affecting Indian tribes; and David Lester, exec-

utive director of the Council of Energy Resource Tribes, who will address the budget requests of the administration for Native Americans in the Department of Energy which affect Indian tribes.

I want to thank the witnesses on all three panels for being with us today.

This is the first time in many years that the committee has received oral testimony from so-called "outside witnesses" on the Federal budget request before preparing its views and estimates for the Budget Committee. In addition, we have requested written testimony from numerous tribal governments and their tribal organizations. For other tribal representatives in the audience today, I strongly encourage you to submit testimony for the record before it closes on February 24.

All testimony received will be reviewed, considered, and used by the committee in the preparation of its views and estimates for the Committee on the Budget.

The Budget Committee yesterday informed our committee that it has moved its deadline for submission of our views and estimates from March 1 to April 3. Consequently, we will postpone our previously scheduled February 23 business meeting to a date nearer the April 3 deadline. However, the record of this hearing, including the deadline for submission of all written testimony on the fiscal year 1996 budget request, will close on February 24 as we announced earlier.

You may notice we have placed around the room charts prepared for the committee by the Congressional Research Service. They show an overall decline in funding for Indian programs and services as stated in 1993 constant dollars. When measured on a per capita basis, Federal spending on non-Indians began to far exceed that spent on Indians beginning in 1985. Under the administration's request, this will worsen even more in the 1996 fiscal year.

I will continue to work vigorously, as I have for the past 12 years, to support funding for programs and services essential to Indians and Alaska Natives. That is the only approach I know of that makes sense, and the only thing that is consistent with the legal and moral obligations of the United States to Indian tribes and their citizens.

All of our witnesses today have submitted written statements which will be made a part of the record of this hearing. So that we will have an opportunity to pose questions to our witnesses, I would like to ask the witnesses to summarize their testimony and concentrate on the one or two issues they feel are most important.

I want to thank all the witnesses for being here today. Those coming from out of town did not have good weather for travel. For those who are returning from our Tuesday hearing, I want to extend our special gratitude.

Mr. Kimble, welcome back. Perhaps you would like to proceed.

STATEMENT OF GARY NILES KIMBLE, COMMISSIONER, ADMINISTRATION FOR NATIVE AMERICANS, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY DOMINIC MASTRAPASQUA, DEPUTY COMMISSIONER; VILMA GUINN, SPECIAL ASSISTANT TO THE COMMISSIONER; AND SHARON McCULLY, ACTING DIRECTOR, EAST AND WEST DIVISION

Mr. KIMBLE. Good morning, Chairman McCain, members of the staff. It is my great pleasure to come before you today in support of the administration's budget request of \$38,461,000 for fiscal year 1996 for the Administration for Native Americans. There is a strong administration commitment to address the critical issues that confront tribes and Native American communities and we are working to strengthen the programs within ANA to support this commitment. I look forward to working closely with this committee and with you, Chairman McCain, so we can continue the progress on this important work.

The Administration for Native Americans is a small agency with a big mission, which we take very seriously. The impact of our philosophy and policies is visible and viable in Native American communities across the country, in Alaska, and the Pacific Islands.

ANA serves over 520 federally-recognized tribes, including over 200 Alaskan village governments, about 60 tribes that are State-recognized or seeking Federal recognition, Indian and Alaska Native organizations, Native Hawaiian communities, and Native populations throughout the Pacific Basin.

The fiscal year 1996 budget request for ANA will assist Native communities and their citizens to move further toward social and economic self-sufficiency in several key ways. We are proposing to reauthorize through 1999 the Native Americans Social and Economic Development Strategies Grant Program. It will allow us to continue to support activities which cover a wide range of inter-related social and economic development efforts, including the expansion and creation of businesses and jobs in many areas, and governance projects which include the development of new and existing tribal constitutions and by-laws. We also will continue to support community efforts to preserve tribal languages and meet their environmental enhancement possibilities. Finally, we are proposing to reauthorize as a permanent program the Native Hawaiian Revolving Loan Fund. The NHRLF has been very successful in promoting economic development activities for Native Hawaiians and should be continued to allow for broader participation of Native Hawaiian communities in assessing economic development opportunities.

ANA's philosophy is to respect the right of self-determination and self-governance of all tribes and Native American communities and organizations. Within this context, our goal is to provide assistance so Native American communities can become self-sufficient. We define a Native American community as self-sufficient when it can generate and control the resources necessary to meet its social and economic goals and the needs of its members.

Governance and social and economic development is a high priority. In fiscal year 1994, ANA awarded 215 grants for governance, social, and economic development projects. These grants include

the expansion and creation of businesses and jobs, youth leadership and entrepreneurialship, tourism, shopping centers, diversified agricultural projects, cultural centers, the first Native American tour business, fisheries, energy and natural resource management, and fish and wildlife preservation.

ANA grants are working in the territories, too. In American Samoa, the American Samoan Government is reconstituting its archival records locally and nationally. The records will be cataloged into a database and published in a guide. In the Northern Marianas, the Northern Marianas College Business Assistance Center provides new and existing native businesses access to technical and business information, business education, and business counselling to assist indigenous Native Pacific Islanders to compete with foreign businesses in their own economy. In Guam, the historic village of Inarajan formed a nonprofit corporation, the Gef Pa'go Inarahan Chamorro Cultural Village, to address the submergence of the Chamorro language by the tourism-fueled economy based upon U.S. administrative practices. The village, as a living museum of Chamorro culture, will provide the community members with an opportunity to earn a living through the practice of their traditional skills by opening the village to tourists.

ANA also assists tribes with status clarification and Federal recognition.

In addition, we have a very important program, the Native Language Preservation and Enhancement Program. Eighteen projects were funded for the survival and continuing vitality of Native American languages. They include research on current Native language use, development of specialized curricula, Native language training programs, language immersion camps for youth, and master, that is elder, and apprentice programs, transcribing or recording on audio and video tapes oral narratives that will be used to develop or revise dictionaries and curricula, and incorporating a tribe's language into tribal Head Start programs.

We have a very important program that I have a particularly strong interest in. It is the Environmental Regulatory Enhancement Program. Tribes and Alaskan village governments are operating 26 environmental regulatory enhancement projects that build professional staff capacity to monitor and enforce tribal environmental programs, to develop tribal environmental statutes and establish community environmental quality standards, and to conduct the research needed to identify sources of pollution and determine the impact of existing environmental quality. The projects also help tribes and village governments to meet Federal environmental regulations.

Another important project that we have is the mitigation of environmental damage of Department of Defense activities on Indian land. In 1995, 19 grants were approved for the mitigation of serious damage to Indian lands due to Department of Defense activities. Briefly, the projects will address mitigating the damage to treaty-protected spawning habitats caused by artillery practice, damage to tribal range and forest lands by gunnery range activities, low level flights over sacred sites and religious ceremonies, suspected leakage of underground storage tanks on lands taken from Indians for temporary war time use by the Defense Department and

unexploded ordinance from gunnery and bombing practices on Indian reservation lands that has resulted in significant damage to range lands, wildlife habitats, and stock water wells. The grants are funded by a transfer of funds from the Department of Defense to ANA.

In conclusion, I hope I have conveyed to you the vital role that ANA plays in implementing a living model of the government-to-government relationship with the tribes and Alaskan village governments to carryout their agency legislative mandates and programs. This translates into understanding the complex subtleties that must be taken into account in developing the program policies that affect Native Americans. In ANA, we can unequivocally state that this approach has proven to be the most effective way to ensure successful program results and Native American progress toward self-sufficiency. All Federal agencies have a trust responsibility and this is one way to honor such responsibility.

I look forward to working with this committee to build upon these efforts. I would be happy to answer any questions at this time, Mr. Chairman.

[Prepared statement of Mr. Kimble appears in appendix.]

The CHAIRMAN. Thank you, Mr. Kimble.

Mr. Williams, welcome.

STATEMENT OF TERRY WILLIAMS, DIRECTOR, AMERICAN INDIAN ENVIRONMENTAL OFFICE, ENVIRONMENTAL PROTECTION AGENCY, ACCOMPANIED BY DENNIS DEVOE, ASSOCIATE DIRECTOR, AMERICAN INDIAN ENVIRONMENTAL OFFICE

Mr. WILLIAMS. Thank you, Mr. Chairman. My name is Terry Williams. I am the new American Indian environmental office director within EPA. With me today is Dennis DeVoe, my associate director. He will be here if you have questions that he might be able to assist with.

We appreciate the opportunity to come here today to talk about the Environmental Protection Agency's efforts to protect public health and protect environments within our Nation's Indian tribes.

Tribal resources—air, water, land, and cultural resources such as herbs, fish, and wildlife—have for many years been an after thought in this country's environmental management. Last year, Carol Browner, the administrator for EPA, reaffirmed the 1984 EPA Indian policy. By that, developing a commonsense approach in alliance with the government-to-government, an approach that looks at protecting public health on Indian lands. The commitment goes beyond just the programs. It also includes developing a commonsense approach such as government-to-government that allows the tribes direct participation.

With this, the agency developed a Tribal Operations Committee. The committee is made up of tribal leaders, with EPA senior managers, with Alaskan Native village leaders, with those who are coming together to look at the issues that are coming upon Indian country. The agency also established the American Indian Environmental Office which provides the primary point of contact for support for the tribes. And the Tribal Operations Committee, the senior managers of EPA and the American Indian Office review the

different issues that are before us, we look at how to start taking on the priority issues, how to deal with the problems with an understanding that we only have a limited budget, and how to prioritize the types of problems that we face and start developing some meaningful plans.

The President's budget requests a total of \$85 million for fiscal year 1996, and 130 work years for EPA's tribal programs. That represents a 77-percent increase in funding and a 20-percent increase in work years. In addition to that, there are many other operational resources not captured in the figures. The agency's decision to significantly increase the Indian resources clearly demonstrates a willingness to step forward and begin a new relationship with the tribes. I believe it is a time that EPA can start shaping a vision for the future for the tribal country. The neglect or after thought of tribal lands and Indian management cannot continue. Our commitment within EPA is to strengthen tribal programs as the tribes build their capacity.

The President's budget for 1996 also includes 30 work years for the American Indian Environmental Office, that is 10 in headquarters and 20 in the regions. This is an increase of 18 work years from the 1994 levels.

Also, EPA's General Assistance Program Grants, multimedia planning and development grants for the tribes, are the foundation in developing tribal capacity. The President's request for \$15 million is an increase of \$6.5 million from the 1995 levels. Tribes are also included in the President's performance partnership proposal which will allow eligible tribes to receive one or more multimedia environmental block grants in lieu of the media-specific grants now available.

The budget also requests \$43 million to protect public health by supporting tribal water quality, drinking water, and water infrastructure programs such as we're trying to address in Alaska Native villages due to lack of basic water and wastewater facilities, and support operation and maintenance of existing facilities in Alaska. We will try to provide guidance and training as well as funding to enhance the development of programs to fit the villagers.

Also, EPA will be implementing the Clean Air Act Tribal Authority Rule which will grant tribes authority to implement and administer clean air programs. The President's budget includes \$5.8 million, an increase of \$4 million, in the financial assistance to tribes developing an implementing programs that will further public health protection and clean air.

The President's request includes \$11 million, an increase of \$7 million, for the tribal Solid Hazardous Waste Underground storage Tank and Superfund Programs. Additionally, legal and technical support as well as enforcement support and training will be provided.

I would like to spend just 1 minute and talk about the American Indian Environmental Office. As I mentioned, the office has been established. We are still in the process of hiring staff, but with that we are already moving ahead in development of tribal plans. The planning process that we're working on is designed to help create stability in tribal country, stability both in working with the juris-

dictions, getting jurisdictions established so the tribes have a base of operations, but also stable funding. With that, we have already outlined framework agreements between the regions and the tribes within the regions to work from starting in the 1995 planning process.

Our office has also worked on the streamlining of the treatment as a State process. We are trying to make it easier for the tribes individually to apply and work through the process to establish the ability to regulate their own jurisdictions. We have also been involved in the environmental justice side of management with the tribes. And we're looking toward areas where we can help look to the future of tribal culture.

As you know, tribal culture is tied to the environment, tied to the lands. And as I sat here the other day listening to the conversations around the table, Mr. Chairman, I couldn't help but think about the youth that you were talking about and the types of problems that tribal teenagers and other children are having within the reservations and surrounding areas. Knowing that the tribal culture is tied to the environment, and knowing that our families over time have been torn from that environment, it is fairly easy to conclude that in this process of looking at our children for the future we need to be able to look at environment as part of the culture and take an assessment of where we are today and where the environment was when our tribes retained the full culture. We need to be able to take some measurements and try to understand what has changed and how that has changed and what we can do to try to bring back some of the culture that these children so desperately need.

With that, I will conclude my remarks. If you have any questions, we would be glad to answer.

The CHAIRMAN. Thank you very much, Mr. Williams.

Mr. Kimble, when does the administration intend to forward a bill to reauthorize ANA for fiscal year 1996?

Mr. KIMBLE. We were just talking about it in the van as we came up. We have finished our work and it is over at OMB. We would hope, Senator McCain, that it will be here tomorrow or Monday. Most likely, the way OMB clearance occurs, it will probably be Monday.

The CHAIRMAN. I guess we would probably want to have some hearings in March on that.

In your prepared statement, you mentioned that 19 grants were approved for the mitigation of serious damage to Indian lands due to Department of Defense activities. You said these grants are funded by a transfer of funds from the Department of Defense to ANA. How much money was that?

Mr. KIMBLE. It was \$8 million, Senator.

The CHAIRMAN. So \$8 million. And would you provide for the record specifics of which projects and where those efforts were made, those 19 different grants?

Mr. KIMBLE. Yes; we will get that to you. Sure.

[Information to be provided appears in appendix.]

The CHAIRMAN. I am also a little bit interested, and perhaps it is a display of ignorance, Are we sending grants to the American Samoan Government?

Mr. KIMBLE. Yes.

The CHAIRMAN. And the Northern Marianas College Business Assistance Center?

Mr. KIMBLE. Yes.

The CHAIRMAN. What is the rationale for that?

Mr. KIMBLE. Those grants occurred before I got here, Senator, so I was not in the decision process. But as I understand it, those entities qualify under our authorization of eligible native communities that we fund. As I understand those grants, the one to the American Samoan Government is to assist them in their capacity to do their affairs. The other one is a business association, as I understand, that provides assistance.

The CHAIRMAN. In anticipation of hearings in March, perhaps you could provide for the record a more detailed description of those funds and the rationale behind them. I am not saying it is wrong. I just would like additional information on that.

[Information to be provided appears in appendix.]

The CHAIRMAN. Mr. Williams, of the total funds identified for tribes in 1996, how much is for facilities such as sewage treatment and how much is for program development, roughly?

Mr. WILLIAMS. I am going to have Mr. DeVoe answer.

Mr. DEVOE. There is \$15 million for sanitation for Native Alaskan villages, \$7.5 million for drinking water infrastructure, and \$8 million for wastewater infrastructure outside of the Native Alaskan village set aside. That is the amount for infrastructure. The balance of the amount is program development.

The CHAIRMAN. And the balance of the amount is how much?

Mr. DEVOE. About \$40 million.

The CHAIRMAN. Does that seem to be a proper ratio to you?

Mr. WILLIAMS. That's a good question. One of the duties of the American Indian Environmental Office over this next few years is going to be looking at the budgets and working with the agency. Part of this process we're entering into now with the regional agreements is working with the tribes to identify the needs so we can better understand what those ratios should be.

The CHAIRMAN. Well, of the roughly \$40 million for program development, how much of that actually goes to tribes and how much of that stays within the agency?

Mr. DEVOE. Actually, the \$40 million I referenced is all direct financial assistance to tribes in the form of grants.

The CHAIRMAN. For program development?

Mr. DEVOE. For program development, yes. The air grants, non-point source, water pollution control, public water system supervision, those types of programs.

The CHAIRMAN. I am pleased to see that the EPA is requesting the full \$15 million authorized under the Environmental General Assistance Grant Program. I have heard concerns from the tribes that the \$15 million ceiling is too low to adequately address the needs of Indian country. Do you think that authorization level should be increased, Mr. Williams?

Mr. WILLIAMS. Currently, we're doing a national assessment of the tribes to try to get an accurate number that we can bring before the committee. But we would certainly like to work with you on that.

The CHAIRMAN. Good. I would appreciate your input on that. As you know, Mr. Williams, last year and the year before, we spent a lot of time on this issue of the environmental problems in Indian country. We don't think we have solved those problems yet by a long shot. So we would like to continue to work with you. I would like you to keep in mind that our philosophy here is to provide as much of the authority and responsibility to the tribes themselves with the technical assistance and guidance of the EPA rather than vice versa. So I hope you will help us in proceeding in that general direction.

Mr. WILLIAMS. We certainly will, Mr. Chairman. And again, we do appreciate the opportunity to come before you.

The CHAIRMAN. Thank you. Thank you both for coming this morning. We look forward to seeing you soon.

Our next witnesses will be Gaiashkibos, who is the president of the National Congress of American Indians; and Julia Davis, who is the representative-chairperson, National Indian Health Board in Denver, CO.

As our witnesses are taking their place, I would like to comment on a letter that I received yesterday afternoon from Senator Bingaman of New Mexico asking that Governor Tafoya be allowed to testify this morning. We might have been able to accommodate Governor Tafoya if we hadn't received the letter so late in the day yesterday. But we will continue to have a series of hearings both here and in the field, and we are in constant dialog with tribal chairmen and tribal Governors and tribal presidents. So we regret that Governor Tafoya will not be testifying this morning, but we will certainly in this coming year provide him and other tribal chairmen with the opportunity to testify before this committee. We will include Governor Tafoya's testimony in the record.

Is Gaiashkibos missing in action this morning? I know, Ms. Davis, you could speak for him. [Laughter.]

But he may want to speak for himself.

Well, if he returns momentarily, then I will ask him to join you at the witness table. If not, Ms. Davis, it is very nice to see you again. Thank you for coming to be with us this morning. Please proceed with your testimony and summarize in whatever way you feel appropriate. At the same time, do not feel so constrained that you're not able to say everything you want to say. Thank you and welcome.

STATEMENT OF JULIA DAVIS, REPRESENTATIVE-CHAIRPERSON, NATIONAL INDIAN HEALTH BOARD, DENVER, CO

Ms. DAVIS. Thank you, Senator McCain. Good morning. It is indeed an honor to be here this morning to present the views of the National Indian Health Board. The National Indian Health Board, for those of you who do not know, represents 12 areas in the United States. Some of the National Indian Health Board members are here with me this morning, and we do appreciate your interest in the National Indian Health Board views on the fiscal year 1996 budget.

Senator McCain, this book on Contract With America, the bold plan by Newt Gingrich and Dick Armey, I have read through this contract and everything in here addresses the concerns that the

National Indian Health Board has. In here, it has violent crimes, welfare reform, strengthening families and protecting our kids, tax cuts for families, fairness for senior citizens. All of these things in this contract are something that we look at very seriously and cautiously for what the Republicans are going to be doing.

As you know, the American Indians and Alaska Natives have had a contract with America way before the Republicans' contract with America. The Federal commitment to provide health care for American Indians and Alaska Native people was purchased with millions of acres of Indian land and with countless natural resources which tribes ceded to the U.S. Government. The commitment was formalized in treaties the United States signed with American Indians, and has been affirmed over and over again by administrations of both parties in both statute and policy.

In 1975, the commitment was expanded when President Nixon signed Public Law 93-638, Indian Self-Determination Act, giving tribes the option of managing the Indian health programs in their communities. Over half of the Indian health care system is operated by tribal governments, ensuring local control and decreasing the Federal bureaucracy.

In 1976, Congress again reaffirmed its commitment to raise the health status of Indian people by passing the Indian Health Care Improvement Act, Public Law 94-437 with amendments in 1988 and 1992 which strengthened the commitment.

Senator McCain, the Indian Health Care Improvement Act is something that would benefit all tribes and Alaska villages. In this budget, I don't see where there has been any funding put into that act. I wanted to bring that to your attention this morning before I start my points that I am going to make regarding the 1996 budget.

On Tuesday, Senator Paul Wellstone, during this committee's oversight hearings, made a comment that I believe is very important in today's discussion. The Senator expressed his view that Congress in these times of great budget constraints needs to focus on those investments which pay for themselves over and over. Mr. Chairman and members of the committee, the investment Congress has made in Indian health since 1954 is just that kind of investment. The funding Congress has provided to build the Indian health care system has changed the health status of Indian people from one comparable to that of third world nations to one which in most cases approaches that of the Nation in general. We hope that you will continue that investment because it is surely one of those that pays for itself over and over by improving the lives of Indian people every day.

The National Indian Health Board is somewhat handicapped in preparing this testimony because the full IHS budget justification became available just yesterday. So instead of discussing specific budget issues today, I would like to first state that NIHB is pleased to see that, unlike last year, the President has proposed a budget for Indian Health Service that maintains current service levels. We are disappointed that none of the well-documented unmet needs for improvements in Indian health care have been addressed, particularly in the areas of contract support costs, contract health services, and facility construction.

I would like to describe an approach that tribes in the Northwest have supported to address IHS budget issues. Each year Congress holds hearings and each year both IHS and tribes come in and advise you of their specific needs for additional funds. We believe there is a more logical, fairer method to meet the needs of Indian people for health care, and that is for the Department to propose and Congress to appropriate a budget according to principles which would maximize the Federal investment in Indian health. I have included all of our proposed principles in my written testimony but want to mention a few we must consider paramount.

I am just briefly going to go over these because you have them in the prepared testimony. No. 1. Appropriate increases must be included to compensate for all mandatories. No. 2. Appropriate increases must be included to address the 2.6 percent annual growth in the Indian population and the increases distributed as mandatory to all programs. No. 3. Revenues from third party collections must not be used to off-set budget authority. No. 4. Increases should be provided each year to address, even if it is in small steps, the health status objective of the Indian Health Care Improvement Act. No. 5. Funding must be provided to staff all newly constructed health facilities. No. 6. Contract health services must be increased to reflect the actual medical inflation rate as identified by the Bureau of Labor Statistics. No. 7. The catastrophic health emergency fund must be budgeted at a level that covers all qualifying cases. No. 8. A portion of the deferred services must be addressed each year with some increase in budget authority. No. 9. Full contract support funds should be provided to enable tribes who wish to operate their own programs to do so and at a level which will allow them to succeed. No. 10. Reasonable increases should be provided to support the scholarship and loan repayment program to assure a steady stream of qualified health professionals. No. 11. Each year the IHS budget should include funding to build a minimum of 10 new or expanded ambulatory health centers to be financed through a variety of mechanisms, including small facility grants, joint venture projects, loan guarantee, and revolving loan programs of Federal projects. The President has only requested funds to complete two facilities but no funds for any new facilities. Consequently, we sincerely encourage Congress this year to support the efforts of tribes themselves to secure new facilities. No. 12. The Indian Health Service must be allowed to adhere to its 10-year plan for sanitation facility construction through adequate appropriations. No. 13. Funding must be provided to adequately maintain health facilities so that these major investments will serve communities for many productive years.

Senator McCain and members of the committee, all of these principles are designed to meet well-documented unmet health care needs of Indian people and to stabilize the Indian health care system so that tribes and IHS together can focus more on delivering quality health care and less on making our needs known to Congress.

We are very pleased to see that the President has proposed a budget which we believe includes at least partially some of our proposed principles. He has proposed increases to cover mandatory cost, not supplanting budget authority with projected collections,

and proposed a modest increase in contract support costs which we believe covers medical inflation but does not provide for any growth in the program. This is a very different budget from that the President proposed for IHS last year. We believe this is due to the efforts made by tribes to show members of the administration and the Indian health care system and the willingness of Dr. Phil Lee, Dr. Buford, and Dr. Trujillo to see our facilities first-hand, to meet frequently with tribal leaders. As a high level HHS department budget bureaucrat recently remarked when asked for advice on IHS budget concerns,

You just need to get out to the people and see what you've done. Your programs are showcases of what Government can do at its best.

Senator McCain, I would like to conclude my testimony this morning and would be pleased to answer any questions.

[Prepared statement of Ms. Davis appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Davis. I am joined by the distinguished Vice Chairman, Senator Inouye. Would you have anything you would like to say, Senator?

Senator INOUE. I thank you, Mr. Chairman. I just want to express my pleasure and to tell you that I feel much reassured by your closing paragraph that you have been able to get together with the highest officials of IHS. They have come to your area to personally inspect your facilities. This, to me, is one of the most promising developments that I have seen in the past 8 years. Thank you.

The CHAIRMAN. Ms. Davis, I did notice in your statement your pleasure that, in your words, "this is a very different budget than the President proposed for Indian Health Service last year. We believe this is due to the efforts made by tribes to show members of the administration" et cetera, et cetera. I might add that my friend to my left, Senator Inouye, played a major role in exposing the inadequacies of the last year's IHS budget. We are very grateful for his efforts in reversing that trend not only for this year, but making up for some of the shortfalls in the appropriations cycle last year so that the original budget proposals were not carried out. We appreciate all of your efforts as well, which have been very significant.

But along those lines, I realize you have not had much time to analyze this budget request, as you said in your statement, and neither have we. But at Tuesday's hearing, it appeared that the administration was requesting a disproportionate cut of more than 230 FTE positions at IHS. In other words, a much larger portion of FTE reductions in relation to the share of the budget that IHS has. Do you get my point?

Ms. DAVIS. Yes.

The CHAIRMAN. Do you have any comment on that? And if you would, when you get a chance to analyze the budget, submit it to us for the record.

Ms. DAVIS. Yes; we certainly will.

[Referenced material to be provided not available at press time.]

The CHAIRMAN. On the face of it, does it appear disproportionate to you?

Ms. DAVIS. Yes; it does. Yes, very much so. We were trying to go through the budget as quickly as we could yesterday, which was

very hard to do. But we are prepared to submit further testimony on the 1996 budget.

The CHAIRMAN. Thank you. I appreciate it. You also testified that new mechanisms should be used to finance and construct new health and sanitation facilities. Perhaps for the record or now, can you provide us with some examples of how this might be done? For instance, do you know of tribal initiatives that have worked in this area?

Ms. DAVIS. Yes, I do. Back in 1991 and 1992, the joint venture demonstration project was authorized. The Warm Spring Tribe of Oregon and Choctaw Tribe of Oklahoma took the tribal initiative to do the joint venture project and they built a health facility on their reservations with their own resources. There was a report that was given to Congress on the Warm Springs facility which I can provide a copy for you. But there are so many positives in that. I know that putting the joint venture demonstration project on line again and making that available through the Indian Health Care Improvement Act would help many tribes across the United States.

The CHAIRMAN. Great. Thank you very much, Ms. Davis. We look forward to continuing to work with you. We appreciate your very wonderful and dedicated efforts. Thank you very much.

[Additional information to be provided not available at press time.]

The CHAIRMAN. Next, we will hear from our third panel, which is Jacqueline Johnson, chairperson of the National American Indian Housing Council; Lorraine Edmo, who is the executive director of the National Indian Education Association; Jerry Pardilla, who is executive director of the National Tribal Environmental Council; and David Lester, who is the executive director of the Council of Energy Resource Tribes. Please come forward and join us.

Ms. Johnson, welcome. Please proceed.

STATEMENT OF JACQUELINE L. JOHNSON, CHAIRPERSON, NATIONAL AMERICAN INDIAN HOUSING COUNCIL, WASHINGTON, DC

Ms. JOHNSON. Thank you. [Greetings spoken in native tongue.] My name is Jacqueline Johnson. My Tlingit name is Koosine. I am a Raven Sockeye from the Tlingit Tribe from Juneau, AK. I am also the chairperson of the National American Indian Housing Council and the executive director of the Tlingit-Haida Regional Housing Authority in Juneau.

Mr. Chairperson, at this very moment our organization that I represent is holding its very first legislative conference at the Dirksen Building. Tribal leaders, Indian housing authorities, administration officers, and Members of Congress are meeting to discuss housing issues among many others. I would like to personally submit to you a complete copy of the issues at the conclusion of our conference.

Mr. Chairman and members of this committee, you have been avid followers of Native American issues and we appreciate your interest, concern, and commitment to Indian country. I want to thank you for letting the National American Indian Housing Council testify today. We have been honored to be invited to speak to you about the ongoing acute need that is of crisis proportions for

housing for Native Americans who continue to be the most impoverished people in the United States. We recognize this body has difficult decisions to make; yet, the needs in Indian country are so severe they almost defy description—homes without complete plumbing, running water, heat, and electricity. These conditions will worsen if not addressed realistically. Estimates place the current need at between 70,000 and 90,000 new or rehabilitated, renovated or modernized housing.

HUD's fiscal year 1996 budget reflects the President's directive to streamline Federal operations and cut the Federal deficit. In meeting this directive, HUD's budget contains the beginning moves toward the ultimate goal of consolidating 60 programs into 3 block grants by fiscal year 1998. We urge this committee not only to consider our urgent needs, but to move slowly and with flexibility in making major changes to the way that Indian housing is delivered.

Mr. Chairman and members of this committee, NAIHC recognizes that Congress must make some very difficult decisions, that voters in November sent a message to this body. You are working hard toward meeting many challenges. As you proceed in this decisionmaking, however, NAIHC recommends that you and the other committees proceed carefully to make changes in the HUD statutes and regulations to allow for real flexibility in the existing programs and to give the IHAs the option of participating in the voucher program.

We ask you also to recognize the great need for housing which still exists in Indian country. Since low income housing was not available to Native Americans until a generation after the rest of America, we are years behind in meeting the acute need to house our people. During the past decade, we have experienced constant reductions of appropriations and have not had the opportunity of even keeping up with the current need, let alone address our future needs. And we ask you to lengthen the time of transition. If IHAs units are moved to a voucher system, we will need more time to prepare for that change to strengthen the processes so IHAs can internalize a new way of operating, to educate our residents so they will understand their options, and to prepare tribal governments so that they will be able to work with the IHAs to assure success.

NAIHC believes, however, that HUD's proposed budget does merit some support. The budget promises flexibility and less red tape. We support these ideas. HUD promises no Federal preferences and no income limits. NAIHC proposes to go further and ask for no 30-percent rule and no Davis-Bacon wage requirements. We say yes, however, to ceiling rents.

The budget in upcoming years rolls all capital development programs into one and does not specifically request amounts for set asides for Native Americans. Mr. Chairman and members of this committee, on behalf of NAIHC, I plead with you not to let us lose ground in the progress we have made in building homes for our people. We ask that you require HUD to allocate its public housing capital fund in the same amount for Indian housing development that it received in fiscal year 1995. We must make up for the past decades we lost while other Americans were being housed.

Our written testimony also addresses concerns for the need for providing options on reservations and trust lands for private mort-

gage financing. Mr. Chairman, you helped introduce our legislation in the 103d Congress. Hopefully, a bill will soon be reintroduced to create the Native American Finance Service Organization [NAFSO] to help meet those needs. We ask funding for NAIHC to establish our Nation's first American Indian Housing Research Development Department as well as to continue its invaluable technical assistance and training programs for Indian housing authority managers and staff.

To conclude, Native American communities have made great strides in learning how to house our people. NAIHC is proud of its member IHAs. They are frugal with their moneys they receive and spend to maintain and operate their programs. The homes that Federal dollars have built on Native American reservations are for the most part sources of pride to those who feel fortunate to live in them. Many of us see that HUD's proposals give us the opportunities to think and plan creatively; to really maximize limited Federal housing dollars. We believe the block grant strategy will give us the flexibility that we have all sought for such a long time. It will bring self-determination and tribal sovereignty closer to reality, to urge or afford some of us to move beyond the dependence on Federal dollars. That is our ultimate goal.

Thank you for your consideration today of Indian housing programs.

[Prepared statement of Ms. Johnson appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Johnson. I did have a chance to read your full statement. I think it is a very impressive one. I will have some questions later on.

I do note the presence of Gaiashkibos with us. If you would care to come up and join this panel, I am sure they would be glad to have you. Nice to see you this morning.

Could we proceed now with Jerry Pardilla. Welcome, Mr. Pardilla, and please proceed.

STATEMENT OF JERRY PARDILLA, EXECUTIVE DIRECTOR, NATIONAL TRIBAL ENVIRONMENTAL COUNCIL, ALBUQUERQUE, NM

Mr. PARDILLA. Thank you. Just for the record, my family pronounces it Pardilla. It is probably not technically correct as proper Spanish, but Pardilla is the way it is pronounced in New Mexico.

The CHAIRMAN. Thank you for that correction.

Mr. PARDILLA. Mr. Chairman and members of the Senate Committee on Indian Affairs, my name is Jerry Pardilla, and I am the interim executive director of the National Tribal Environmental Council. I am a member of the Penobscot Indian Nation and the former Governor of my tribe. Thank you for this opportunity to provide comments on the President's budget, specifically pertaining to EPA and its request for Indian environmental programs.

I would like to give a little bit of background about the National Tribal Environmental Council, or NTEC as it is much easier to say. NTEC was created in 1991 as a tribal membership organization dedicated to assisting Indian tribes in the protection and preservation of their environments. NTEC's mission is to enhance each tribe's ability to protect, preserve, and promote the wise management of air, land, and water for the benefit of present and future

generations. Currently, our membership consists of 61 federally recognized tribes from 19 States. These tribes are very active in developing their environmental programs.

NTEC is an advocate for tribes sovereign right to regulate their own environments and maintains support to these tribes as they seek to do so. To this end, NTEC completed in May 1994 the National Tribal Environmental Review. It was a survey designed to document the environmental conditions and needs of tribes and to ensure that NTEC as an organization creates a comprehensive response to those needs in its programmatic initiatives. Of all the federally recognized tribes that were sought for their input, 149 responded to this survey.

The survey results were compiled in a final report that demonstrated that Indian country is subject to a broad range of environmental problems, including surface and ground water contamination, illegal dumping, hazardous waste disposal, military threats, air pollution, mining wastes, habitat destruction, and human health risks. Like States and the Federal Government, tribes are subject to compliance with Federal environmental regulations to address these problems. However, tribes do not have sufficient funding and resources to protect their environments. The final report shows that even though some tribes have developed their environmental programs, many tribes have no regulatory presence on their lands at all.

Just as an overview, I would like to say that historically tribes have not received adequate funding from EPA to protect their people and their environments. In our NER final report, we suggest that from the period of the adoption of EPA's 1984 Indian policy and the completion of our final report in 1994, the agency received about \$23 billion in additional funding with no discernible increase in funding for the protection of tribal people and their environments. In the 5-year period from 1989 through 1993, EPA funding for all Indian tribes never exceeded one-third of 1 percent of its total budget. This severe funding inadequacy has led to many of the environmental problems that tribes still face today.

This administration, however, has demonstrated its commitment to working with Indian tribes as sovereign governments and it recognizes their unique legal relationships with the United States. We acknowledge that the EPA has reaffirmed its 1984 Indian policy and that it has issued implementation guidelines, it has established the American Indian Environmental Office, and has also formed the Tribal Operations Committee. We also recognize President Clinton issued an environmental justice Executive Order 12898. These are significant administration actions which we think deserve special recognition for their efforts to address tribal concerns and to institutionalize an Indian presence within EPA.

While these measures are noteworthy, these actions have yet to translate to substantial funding increases for tribes. For fiscal year 1996, EPA has requested the \$15-million authorization level for general assistance programs. This is a \$6.5-million increase from fiscal year 1995 but it still is not adequate to address the severe budget shortfalls which tribes have had to face over the past two decades. Comparatively speaking, EPA has not provided funding to the tribes to the same level or scope as it has to States. While

States have built their program capability to implement and manage delegated programs from EPA and they have received baseline funding, tribes have been largely neglected. A continued lack of funding poses a serious threat to tribes' human health and environments and we think presents an environmental justice issue which contravenes the Executive Order 12898.

Regarding the budget, we are particularly pleased and I would like to commend the administration for the proposed fiscal year 1996 EPA budget as it proposes to advance a cleaner, cheaper, smarter environmental agenda which expects to fundamentally change the way Government protects our environment and our health as, they say, with "innovation, flexibility, and fairness." The EPA's budget is designed to effect this change through the implementation of the agency's strategic plan entitled New Generation of Environmental Protection. Among the guiding strategic principles of the EPA's plan, tribes are included as potential participants in programs for ecosystem protection, performance partnerships, and environmental justice.

Tribes would be willing and proactive partners in EPA's full strategic plan, particularly in ecosystem protection, because of the agency's new approach to deliver both science and resources to local stakeholders like tribes in a manner relevant to the place being protected. An integral component of this ecosystem protection would be the performance partnerships which would allow tribes to receive one or more consolidated grants as a substitute for several environmental categorical grants. Thus, tribes would be able to target resources toward their most pressing environmental priorities. All these areas fall under the purview of fulfilling the agency's environmental justice mandate.

The EPA's strategic plan should incorporate steps to fund tribes at levels where their people and environments will receive the protection they deserve. The EPA's proposed budget is \$7.4 billion and contains, as they say, a modest increase of \$138 million from fiscal year 1995. The budget proposes to redirect agency resources to target the highest risks, provide fast relief for communities near toxic dump sites, strengthen partnerships with States, tribes, and communities; strengthen science; strengthen enforcement; and ensure compliance with environmental laws. Tribes would be well-served by the agency redirecting resources to tribes in these target areas, but it is not clear how much of the agency budget increase can be directly attributed to tribal programs.

The agency's budget provides for the operational expenses related to the American Indian Environmental Office and its support of the Tribal Operations Committee. It further increases the general assistance program to its authorized level of \$15 million. These steps are moving in the right direction to allow tribes to establish their environmental programs and for the agency to seek tribal input in the Federal budget and decisionmaking processes. Yet, there must be a commitment to substantially increase the overall funding for tribal environmental programs under all environmental statutory regulations.

The general assistance program is designed to increase tribes' capacity to manage environmental programs. However, it is not intended to be the basis for ongoing program support. Therefore, EPA

should focus on implementing a twofold strategy. First, to fund the general assistance program at levels which will support tribal capacity building. This would necessitate the elimination of the ceiling for the GAP funding at \$15 million. The present \$15 million request is a significant increase from fiscal year 1995, but it is still not adequate to fund tribal efforts to establish their environmental programs. For instance, if all federally recognized tribes were to receive this funding at the statutory minimum of \$75,000, this program would necessitate funding of at least \$41 million. We understand, through Terry Williams' testimony today, the agency is in support of raising that ceiling or eliminating that ceiling. Furthermore, some tribes would like to expand the scope of the general assistance program to provide for funding delegated programs.

The second strategy would be that EPA must also fund and sustain environmental programs beyond this general assistance program funding. The President's budget allocates \$683 million to support State, local, and tribal environmental programs as part of the operating programs. This could be one source for funding those sustained tribal environmental programs once they are established with the GAP funding. It is not clear from this fiscal year 1996 budget as to what funding allocations are directed to tribes except for the general assistance program.

In general, tribes need to be given greater consideration in these operating program allocations. By comparison, States have received continuous EPA funding over the past two decades allowing them to build their capacity to implement and manage delegated programs and they have done this through consistent baseline funding. Tribes have not been accorded similar treatment. It is hoped that the administration's recent policy actions will bring about these more positive changes for tribes. The actions really must be substantiated with a commitment to meaningfully fund the sustaining of tribal environmental programs. The agency's performance partnerships and program grants must reconcile the funding inequities and provide funding to tribes at the same level and scope which the States have received.

Tribes are well aware of this disparity that the States have had in preference in funding and their ability to develop technical and regulatory capacity. This has really exacerbated the relationships between tribes and States. Until tribes are able to establish their own technical and regulatory capacity with baseline Federal funding, they will be challenged to protect their people and environments and will be in a disadvantaged position to work out any jurisdictional differences with States.

One of the recommendations that NTEC has, and we're aware that there is a bill submitted during this Congress, is for the elevation of the position of the director of the American Indian Environmental Office to a position of an assistant secretary. We think that this can ensure that tribal environmental programs would have the necessary authority and voice within the agency both with the programs and the budget. While we know that there is an Indian office within the agency, tribes are still not convinced that the new office has the presence and authority necessary to serve tribes. We would request your support of legislation to be reintroduced, as

we are aware that legislation has been introduced already, to elevate this position.

We would also advocate for a larger set aside within each of the major environmental statutes, such as the Clean Water Act, Safe Drinking Water Act, and Superfund. Last year, significant progress was made to increase these funding set asides for tribes and Alaska Native villages. Unfortunately, these legislative efforts failed in the last Congress. As Congress now considers the reauthorization of these acts, Indian tribes will need the support of this committee to champion these efforts to raise the level of funding authority for Indian tribes with regard to fulfilling the responsibilities of these specific environmental acts.

In conclusion, we would like to thank the Senate Committee on Indian Affairs for conducting this hearing and particularly for inviting NTEC to testify. We applaud the strides that the administration has made in their policy actions. We would like to say that it really needs to be translated into substantial funding increases so that tribes can establish their environmental programs. That concludes my presentation.

[Prepared statement of Mr. Pardilla appears in appendix.]

The CHAIRMAN. Thank you, Mr. Pardilla.

It is nice to welcome back an old friend, David Lester. Welcome. Please proceed, sir.

STATEMENT OF DAVID LESTER, EXECUTIVE DIRECTOR, COUNCIL OF ENERGY RESOURCE TRIBES, DENVER, CO

Mr. LESTER. Thank you, Mr. Chairman. I am David Lester. I am executive director for the last 12 years of the Council of Energy Resource Tribes, commonly called CERT. CERT is an organization of 54 federally recognized Indian tribes whose lands and populations are nearly 60 percent of the Indian lands and Indian population living on or near Indian reservations in the United States. Our mission is to promote self-government, the exercise of our sovereignty, and the development of stable diversified local tribal economies.

I am also the former commissioner for the Administration for Native Americans. I served in the later years of the Carter administration and the early years of the Reagan administration. In those years, we moved the agency from an agency in support of the administrative costs of social service delivery to an agency that supports social and economic development for all Native American tribes and communities across this great country.

I am also here in the capacity of one of the cochairs of the Ad Hoc Coalition in support of ANA. That coalition and the other cochairs are made up of the National Congress of American Indians, the Council for Tribal Employment Rights, Native American Rights Fund, American Indian Higher Education Consortium, Americans for Indian Opportunity, the National Center for American Indian Enterprise Development, National Indian Gaming Association, National Tribal Environmental Council, United South and Eastern Tribes, and the All Indian Pueblo Council.

The vision that we have, Mr. Chairman, is to enter the future on our own terms as Indian tribes and Indian peoples. The background to this vision, as you know, is an age-old paternalism and

our long struggle against exploitation of our lands and resources and the economic and social dependency of our peoples. You, Mr. Chairman, and the distinguished colleague on your left, Senator Inouye, have been allies in our struggle to enter the future on our own terms.

You might say the foreground to my testimony is the contract with America and the enormous political change that is occurring across the American political landscape. As we understand it, a balanced budget, less Federal control, and breaking the federally-sponsored dependency are among the elements of this contract with America. We have much in common with that contract, as Ms. Davis pointed out earlier. As these charts indicate, no one has suffered more in the struggle with the Federal deficit than American Indian tribes over the last decade and a half when our budgets began being reduced in the later years of the Carter administration and continued to be reduced throughout the Reagan and Bush years. What these charts don't indicate is the explosion of our population in those years. If that were added to these charts, they would be even more dramatic in terms of what has been happening with the Federal resource and its accessibility for Indian tribes and other Native American communities.

The CHAIRMAN. That's a great suggestion, David. I think we will start adding that to all of our charts. Thank you.

Mr. LESTER. And like Ms. Davis, I would like to also refer you to a much earlier contract that America entered into with the first American nations. The principal tenet of that contract, as we understand it, is the Federal trust protection which is an outgrowth of statutes, treaty, and court decisions, a government-to-government political relationship, and, last, a Federal commitment to assist each Indian tribe achieve its vision for social and economic progress. As expressed in earlier testimony before this committee, we don't seek to be identical to other American people; we seek to be American Indians and to be able to live according to our values. That's why we stress each tribe's vision.

If we look at the President's budget in light of our own objectives to be able to enter the future on our own terms politically, economically, and socially, and if we understand that there is no more firm expression of policy by any government on this earth than how they spend their money and how they collect their taxes, I am afraid that the rhetoric is one thing and the reality if another. And yes, we applaud any progress toward that goal.

Specifically, I want to comment on the BIA energy minerals and credit programs, the energy programs in the National Energy Policy Act, and the Administration for Native Americans. I will also make some comment on EPA in as much as we cannot develop our minerals nor can we develop our communities without paying attention, and close attention, to the impacts that housing, mineral development, agricultural development, and community development have on our environments and the wastestream that those activities produce.

First, the BIA energy minerals budget. The President is asking for \$1.495 million for mineral assessments. This is wholly inadequate. The Inspector General of the Department of the Interior said in 1993 that the minimum required to maintain the integrity

of the program was \$7 million. He said that the program is essentially meeting its goals except that it was wholly underfunded. The Mineral Assessment Program is the first step to fulfilling the trust responsibility of the Federal Government to Indian tribes because it is that program that identifies the mineral estate that requires protection and management. The lack of adequate funding has resulted in the last 160-some-odd years of BIA existence that we have had assessments on roughly one-half of the Indian lands of this country. And so the trust responsibility to Indian tribes is not being met by this budget request of \$1.495 million. We recommend that an appropriation of \$8 million would be adequate to maintain the integrity of the assessment program.

As for the Special Tribal Projects Program of the BIA energy minerals budget, the President asked for \$875,000. This again does not adequately meet the need. This aspect of the program, special tribal projects, is in response to the growing necessity for tribes to manage their mineral assets, to oversee the mining and mineral operators on their lands, to make sure that lease agreements are being complied with, that lease royalty payments are being paid that are equal to what is owed, and that they are complying with minimum environmental standards in those operations. This whole tribal management infrastructure to manage their mineral estate has been largely underwritten by these special tribal projects as well as by funds from the Administration for Native Americans. We recommend that the appropriation for this aspect of the program be \$4 million.

The third aspect of the BIA mineral and energy program is technical assistance. The budget request is zero for technical assistance to Indian tribes. I don't think that anyone could rationally argue that Indian tribes with vast mining and mineral extraction activities on their lands have no need for expert technical, scientific assistance in determining what they should do in the management and protection of their resources. We recommend a minimum of \$500,000 be appropriated for technical assistance in the fiscal year 1996 budget.

What does this mean? We don't believe that this is in the truest sense an expenditure, but rather an investment. In 1992, for example, royalties to Indian tribes from mineral activities on their lands was \$156.4 million. In addition, mineral activities for major Indian tribes in the West, particularly in the four corners area, is the principal source of their tax revenues and a major source of private sector jobs. On Navajo alone, energy related activities—mining, transmission of electricity, oil and gas extraction and exploration—brought to the tribe about 90 percent of the tribal budget. Mining of coal alone provided over 2,000 jobs and a \$55-million payroll to the Navajo Nation, largely benefiting the economies of Window Rock, Shiprock, and Kayenta, Navajo communities adjacent or near mining activities. A similar story could be said of the Jicarilla Apache, the Southern Ute, the Ute Mountain Ute, the Hopi, the Sioux, the Blackfeet, and other tribes with significant energy mineral production. Energy and mining activities on Indian lands is an important part of the tribal economies in those areas where the tribes have those resources.

I would like to comment on the BIA credit program which is closely related to the goal that we have of developing stable diversified tribal economies. We have two concerns. One, the budgets are so low as to not be a national program but rather a national pilot demonstration project. It is not a national program for financing economic growth of Indian tribal economies. Secondly, in the light of other substantial cuts being proposed for SBA and other programs for business credit for minorities and other disadvantaged populations in the United States, we are likely to see a significant decrease in new business startups and the expansion of Indian-owned enterprises across Indian country. And so we would recommend that perhaps a study and an oversight by this committee to look at the effects of how the overall budget in support of business development will affect the economic future of Indian tribes, particularly, I must note again, in light of demographic changes. Many of the small rural towns of American that are adjacent to Indian territories are losing their non-Indian population while the Indian population is growing by leaps and bounds. Without this business assistance, we are likely to see the further decline or collapse in the economies of Indian tribes that is absolutely unconscionable when one realizes that our population is growing so rapidly.

Next, the energy programs authorized by the National Energy Policy Act of 1992. The Department of Energy has been very slow in implementing its Indian authorities. However, we must say that at least, even though as slow as they are, they have been quicker than the Department of the Interior in implementing the programs authorized for that department. We recommend for fiscal year 1996 that \$15 million be appropriated in the Department of Energy's Indian energy programs, \$15 million above those that will be earmarked by Congress for special tribal projects. We want to point out to this committee and for the record that these energy projects are not reserved or restricted to energy resource-owning Indian tribes. They cover a very broad range.

The CHAIRMAN. Mr. Lester, I am afraid we are going to have a vote on the floor pretty soon. So if you could summarize, I would appreciate it. I did have the opportunity to read your full statement and of course it will be made a part of the record. Thank you, Mr. Lester.

Mr. LESTER. Okay. For EPA and for DOE, we recommend that we stop looking at line item appropriations for special Indian projects and move to a definite percent set aside so that we can achieve equitable funding for Indian programs in these departments. And for ANA, we would like to see a complete reauthorization and for SEDS an appropriation of \$52 million. For the Indian Environmental Regulatory Enhancement Act, its authorized ceiling of \$8 million. And we would hope to see that the \$8 million that this committee worked very hard to achieve, that \$8 million transfer from the Department of Defense, be protected because there is significant environmental damage that has been done to Indian lands by Department of Defense operations.

That is the conclusion of my testimony, Mr. Chairman.

[Prepared statement of Mr. Lester appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Lester. I apologize for shortening your statement but I believe we have a vote starting in

a few minutes. But I would like to ask Gaiashkibos if he would begin his statement. If necessary, we may take a brief break and come back for Ms. Edmo and questions. Please proceed, sir.

STATEMENT OF GAIASHKIBOS, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS, AND CHAIRMAN, LAC COURTE OREILLES TRIBE, WI

GAIASHKIBOS. Good morning, Mr. Chairman, Mr. Vice Chairman, and distinguished members of the Senate Committee on Indian Affairs. I am Gaiashkibos, tribal chairman of the Lac Courte Oreilles Band of Lake Superior Ojibwa Indians, and also the president of the National Congress of American Indians. First of all, I want to apologize for my lateness in arriving here to the hearing this morning. The information I had was that the time had changed. But I also want to thank you for allowing me to sit with this distinguished panel here.

The CHAIRMAN. You're always welcome.

GAIASHKIBOS. Thank you. I am here today to present testimony on the President's fiscal year 1996 budget request for Indian programs and the impact this request will have on Indian tribes. Over the years, Indian programs have traditionally been the first to be cut and the last to be funded. This fact is especially disheartening and frustrating given the legal and moral obligations of the United States to Indian nations and people.

Before I delve into the details of the fiscal year 1996 budget request items, I would like to first reiterate the context in which this budget and all Federal actions must be placed when we are discussing Indian affairs. In November, the American people voted for change in the way Government does business. The new majority seeks to implement the contract with America as part of this change. I wish to remind the committee that Indian tribes have had a contract with America since the earliest days of this Republic. The United States entered the most sacred kind of contract possible in our constitutional scheme in the form of treaties and Indian nations have a relationship with the United States not shared by any other sovereign in the Nation. We are not States, we are not counties, we are not clients, we are not customers, we are not simply another ethnic group. We are sovereign entities and deal with the Government in a government-to-government fashion. This fundamental responsibility is a legal reality that cannot be ignored or forgotten.

The National Congress is well aware that the new majority in Congress is searching for ways to downsize the Federal Government and to make Government more efficient and effective in achieving results. The Clinton administration National Performance Review also seeks new ways for the Government to operate in a leaner but not necessarily meaner fashion. Indian tribes share these goals. Because Indian programs have been traditionally underfunded, tribes have been forced to do more with less for decades. Because of the inequitable funding levels for Indian programs, any savings realized as results of the downsizing effort should be passed on to tribal governments to cover services delivered as well as to assist in building tribal capacity to better deliver services in the future.

I would like to commend the committee and the administration witnesses that appeared before you on Tuesday for what I view as a frank discussion on the fiscal year 1996 budget request as well as many reoccurring problems Indian tribes continue to face. As this committee knows, Indian housing conditions are poor and the kind found in third world nations. As Senator Campbell noted, most Indian housing is overcrowded and dilapidated and does not adequately shield Indian people from the harsh elements. I was appreciative of the testimony of Housing and Urban Development Secretary Cisneros and found the proposal to bring private capital and privately owned housing to our reservation communities long overdue and much needed. The testimony of Indian Health Service Director Dr. Michael Trujillo was much compelling regarding the state of Indian health, which is similarly poor and getting worse. As was stated by Dr. Trujillo and agreed by most members of the committee, funding beyond the current request is in order to meet the Nation's enduring commitment to effective delivery of health care, including mental health, to Indian people.

In addition, let me say that I am fully aware of the funding and institutional constraints within which the BIA operates. Keeping these constraints in mind, I am also fully cognizant of the role that the BIA is asked to play in bringing real change to Indian country and the ongoing crisis in terms of continuing and unmet needs of our tribes. Throughout this and future budgetary process and the ongoing streamlining process we intend to remind the Government of the tribal needs and the capacity of the tribes to function and thrive in a restructured BIA framework.

Mr. Chairman, if legislation is forthcoming creating block grants to the States, NCAI strongly urges this committee to ensure that any such block grant approach include a direct tribal grant as well. As history has shown with other Federal block grant funding mechanisms, Indian tribes have not fared well when required to rely on the States for funding. Without such direct tribal funding, the government-to-government relationship would be rendered void and these crucial Federal dollars would not make their way to the tribes. In legislation ranging from the crime bill to welfare reform, the U.S. Congress may opt for financing Federal or federally-mandated programs with block grants. I should mention and lend our support for the inclusion of tribal governments in these and any Federal block grant proposals. We support, for instance, Senator Inouye's efforts to include tribal governments in title XX block grants.

Mr. Chairman, it is against this backdrop that I am here to present testimony on the BIA budget. However, because no program stands alone in Indian country, I also take this opportunity to discuss Indian health, education, development, and other programs central to the understanding of tribal needs. The request for the BIA for fiscal year 1996 is \$2.36 billion, which is an \$89-million increase over the level enacted for fiscal year 1995 and roughly translates into a 3.9-percent increase. Adjusted for inflation, this increase represents a funding level that is stagnate at best. The thrust of the request is maintaining service to the tribes. While there are continuing unmet needs for the tribes, we are pleased to see that major reductions are not requested.

Indian tribes are aware of the current budgetary crisis. However, Mr. Chairman, as a tribal leader and president of the National Congress of American Indians, I am dismayed that time and time again funding levels represent damage control with not meaningful appropriation levels to improve services to Indian communities. Of the \$89 million increase in fiscal year 1996 requested, fully 20 percent of the increase, or \$17 million, represents increases in special programs and overhead, Area office increases, and Central Office increases. In addition, despite an overall decline in FTEs bureau-wide, the Central Office FTE will actually increase by 19 FTE positions. This raises serious questions of just how the realignment and restructuring will be carried out and which programs will ultimately benefit. Because of items such as this, the request must be viewed against the backdrop of Government downsizing and, therefore, the BIA's streamlining process itself merits discussion.

After expending millions of dollars and 4 years of time, the Joint BIA-Tribal-Department of Interior Task Force on BIA reorganization finalized its report in late November 1994. Despite these efforts, the Interior Department and the BIA announced a new streamlining proposal that is significantly different than the Task Force recommendations. This was without proper consultations with the tribes. I also bring your attention, Mr. Chairman, to the findings of the American Indian Policy Review Commission which finalized its report in the mid-1970's. The Commission recommended the formation of a Department of Indian Affairs or, alternatively, an independent Indian regulatory agency to fulfill the trust obligations of the United States to the tribes. Just this past week, NCAI delegates passed a resolution reaffirming the findings of the Commission and stating that the obligation is incumbent on the entire Federal Government. I ask the committee to be cognizant of this as you engage in the important task of evaluating the performance of the BIA.

We are in agreement with those who insist that the starting point for any streamlining proposals should be the recommendations made by the Task Force and not the recently proposed BIA plan. These recommendations include a plan to redistribute any savings brought on by downsizing, estimated to be \$28 million, and a planned disjunctive of area offices from the responsibility for administering programs that the tribes can, and should, operate on their own behalf. The largest increase is an additional increase in the Operation of Indian Programs [OIP]. These programs include funds for tribal government, human services, education, public safety and justice, community development, resource management, trust services, and general administration. Payments made to settle existing land and water settlements and miscellaneous payments to Indians for lost income and interest on trust assets represent the second largest items, slated for increase of \$74 million.

Senator INOUE. Mr. President, may I suggest that we stop for a brief moment here because I will have to go to vote now.

GAIAASHKIBOS. Yes, sir.

Senator INOUE. Chairman McCain should be returning in a few minutes and I am certain he will continue at that point. So we will take a short recess.

GAIAASHKIBOS. Thank you, Mr. Vice Chairman.

[Recess.]

The CHAIRMAN. Please continue, Chairman Gaiashkibos. I am afraid we're going to have another vote here in about 15 or 20 minutes. So I want to ask you if you could summarize, but, again, I don't want to detract from the entirety of your statement or your message. Please proceed, sir.

GAIAASHKIBOS. Thank you, Mr. Chairman. It is understandable and I will try to summarize my remarks here. Over the past several years, tribal requests have centered on fully funded tribal priority allocations [TPA] and contract support. We welcome in general the trend toward more local authority in the form of tribal priority allocations. The budget system principles have been accepted by tribes across the country and emphasize funding inflation on TPA before other increases. Though increased in dollar terms because of inflation and other factors, the TPA will actually be eroded 2 percent or roughly \$10 million.

After many years of failing to implement the funding provisions of the Indian Self-Determination Act, we applaud the fiscal year 1996 request insofar as it includes funding provisions for self-determination programs. And given statutory and tribal demands for greater self-determination and self-governance, we believe that given current and projected needs the request is underfunded by at least \$10 million.

Also, there needs to be greater emphasis placed on infrastructure. This is badly needed in Indian country, as you know. So the National Congress supports the fiscal year 1996 request for greater dollars in infrastructure needs to meet the unmet needs. The fiscal year 1996 request does not reflect these needs as the construction budget alone is slated for a \$5-million decrease. Although the accelerated depreciation amendments to the Internal Revenue Code may prove helpful in drawing infrastructure funds to reservations, the request does not make allowance for current needs.

Additionally, under the Indian direct loan program, this is zeroed out in the fiscal year 1996 request. It is already deficient by \$9.6 million. And the technical assistance for Indian enterprises funding receives no additional funding over the already underfunded \$1.9 million.

In addition, the economic development allocation in the request is proposed to receive \$115,000 less than the fiscal year 1995 enacted level. One exception to this trend is the allocation of \$4.8 million to upgrade fire and safety equipment and facilities to comply with existing standards. We support the allocation but are concerned that other facilities upgrading and maintenance may not receive the attention they deserve.

The National Congress of American Indians supports the testimony of the National Indian Education Association [NIEA]. The administration proposes to fund the BIA adult education program at \$3.5 million, an increase of only \$37,000 over the fiscal year 1995 enacted level. This amount is to fund only 90 tribes, organizations, and institutions. The scope and impact of this request is clearly insufficient to assist Indian tribes across the Nation to achieve any real progress.

The budget request for the Johnson-O'Malley program has actually declined \$1.6 million over the fiscal year 1995 enacted level,

to \$22.75 million. Assessments made by the NIEA indicate that the need for JOM spending is \$54 million. In terms of facilities operation and maintenance, there is a proposed \$4.4 million increase over the fiscal year 1995 enacted level. Although we support the increase, the demonstrated need is \$23.3 million. Without a strong facilities and maintenance foundation, the ability to nurture a learning environment is seriously diminished. In light of this, we support the \$35 million slated for school construction, a significant increase over the fiscal year 1995 enacted level. Though we applaud the increase, the reality is that no new construction can be undertaken given this request. In line with the NIA recommendations, we support a level of funding that will allow for construction of at least five new school starts per year, which is keeping with the current demand.

We also stress the need for funding over and above the proposed budget request of \$3 million for tribes' needs to develop and maintain administrative capacity to carryout the goals of the Improving America Schools Act, Public Law 103-382. And we also seek to breath new life into the Indian Fellowship Education personal development program which is proposed to suffer a decrease in funding of \$732,000 in the fiscal year 1996 request. Without resources, no new fellowships can be awarded. We support increases in the educational professional development program to provide grants to higher education institutions to work in tandem with Indian organizations, State and local education agencies. The 1990 Census report shows that 46 percent of all American Indians and Alaska Natives over 25 years of age residing on the reservation do not have a high school degree or equivalency. In light of this, we are concerned with the modest increase in funding proposal for Indian adult education under Title IX, part A, subpart 3 that will enable large numbers of Indian adults to increase literacy rates and in the process earn a general equivalency degree.

In terms of the Indian health, I want to commend once again Dr. Trujillo's testimony. The Indian Health Service has the responsibility to carryout the Federal obligation of providing quality health services to approximately 1.4 million American Indians and Alaskan Natives located in remote rural areas as well as urban areas. The capacity of IHS to fulfill this responsibility is constrained not only by direct appropriation limitations, but also by limitations in physical and transportation infrastructure. Because of these factors, the cost of delivery is substantially greater than in non-Indian populations. The fiscal year 1996 request is for \$2.3 billion, a modest 4.5-percent increase over the enacted fiscal year 1995 level. We believe current and projected health demands will strain the IHS budget at the 1996 level of funding and urge full funding of the IHS without prejudice to other Indian programs.

Also of great concern is the reduction of FTEs. I think Dr. Trujillo stated that the IHS is to suffer 230 FTE reductions in fiscal year 1996 as part of the overall Health and Human Services Department decrease. This represents 8 percent of the total. This is even more significant when it is realized that the budget represents only 1.8 percent of the total HHS budget. Indian tribes were in a similar position regarding the fiscal year 1995 budget request and only after raising precisely this point was the fiscal year

1995 budget authority restored and the impact of the FTE reductions lessened. If the fiscal year 1996 budget request remains as it now stands, we anticipate making similar demands on the administration.

Let me say in terms of ANA, the National Congress supports the continued funding efforts for the Administration for Native Americans. As a mini agency serving over 550 federally recognized tribes, the ANA assists tribes in achieving economic and self-sufficiency through its carefully tailored programs through the Native American social and economic development strategy [SEDS] and other programs. The ANA mandate helps tribes bring private sector employment to the reservation, assists in preserving Native languages, and helps tribes fulfill their environmental enhancement responsibilities. The ANA is an innovative, forward-looking agency whose funding should be maintained and strengthened in the years ahead.

Indian elders hold a special place in the Indian family and culture. We applaud the fiscal year 1996 request as it purports to retain older American programs [OAA] at hold harmless levels, including the senior community service employment training program of title V. The request also proposes a \$1.5 million increase for title VI grants for Native Americans, serving 227 elder nutrition programs through the fully authorized amount of \$30 million is deemed necessary to meet the current needs. NCAI also supports the proposed \$1.5 million increase for title VII.

Mr. Chairman, as you know, attaining a level of funding that meets tribal needs and is consistent with the Federal-tribal government-to-government relationship is a daunting task. NCAI is committed to engaging the Congress and the administration to ensure that both of these goals are met. We can build a brighter future for Indian tribes and Indian people across this Nation.

In conclusion, I want to reiterate the pre-existing, constitutional, preeminent contract with America that tribes share with the Federal Government. As Senator Inouye has clearly and correctly stated in the past, through the transfer of massive amounts of land, Indian nations have prepaid for the services the Government promised to provide. Let me also remind the committee that the Indian people also pay taxes, including Federal and State income taxes, excise and sales taxes, and continue to contribute to the State and Federal treasuries.

Finally, let me say that as a proportion of population, American Indians have had the highest participation in the U.S. military in all wars since the War of Independence and also the highest proportion of decorated veterans. In fact, American Indians served proudly and paid the supreme sacrifice in World War I even before being granted citizenship in 1924. Mr. Chairman, American Indians have also paid in years of service and in blood.

With that, I would like to say I thank you very much. I request that my entire written testimony be included in the record. I would also like to add on behalf of the National Congress of American Indians to the Senate committee staff members that are leaving, we offer and call upon the Creator for many blessings for their tireless work on behalf of all of our Indian people. Thank you, Mr. Chairman.

[Prepared statement of Gaiashkibos appears in appendix.]

The CHAIRMAN. Thank you very much, sir.

Ms. Edmo, welcome. Thank you for joining us this morning. Please proceed.

**STATEMENT OF LORRAINE P. EDMO, EXECUTIVE DIRECTOR,
NATIONAL INDIAN EDUCATION ASSOCIATION, ALEXANDRIA,
VA**

Ms. EDMO. Thank you, Senator McCain. I am sorry for not being here a little earlier. I thought the schedule had been revised slightly. My name is Lorraine Edmo and I am the executive director of the National Indian Education Association. I am also a member of the Shoshone and Bannock Tribes of Idaho. I have been with NIEA both as a board member and executive director since 1992.

I would like to comment on the BIA education budget as well as the Office of Indian Education and education programs in ANA as well as the Indian Health Service. I would like to thank President Gaiashkibos for his inclusion of some of our concerns on the education budget. We do have a memorandum of agreement with NCAI as well as a number of other national education organizations and regional organizations to advance the cause of American Indian and Alaska Native education. This includes groups like the American Indian Higher Education Consortium, the Association of Contract Tribal Schools, the National Indian School Boards Association, UNITY which appeared last week, and we support all of their concerns.

Regarding Adult Education in the BIA budget, this program is slated just for a slight increase at a funding level of \$3.5 million. Our concern is that there need to be more adult education programs. We are supporting a funding level of at least \$6 million in fiscal year 1996.

For the Johnson-O'Malley Program, as President Gaiashkibos mentioned, the funding level has decreased down to \$22.75 million. I think it was at one time up to about \$26 million. Our calculation is that the real need for JOM is \$54 million, and this amount is supported by both the Northwest Indian Education Summit as well as the National JOM Directors Association which was formed last year and advances the concerns of all the Johnson-O'Malley programs nationwide.

NIEA also opposed transferring the Johnson-O'Malley program to the tribal priority allocation [TPA]. This was by resolution last year at our silver anniversary convention. It is our understanding that the Bureau has proposed to put this into the TPA allocation this year.

Regarding the Indian School Equalization Formula, this formula funds Indian students in BIA-funded schools at an annual rate that the BIA projects of \$3,800 for school year 1996-97. Those organizations representing these schools say that the actual funding rate is \$2,900 for 1996-97. So this is about \$100 difference. Nevertheless, both of these figures fall very short of the Blue Ribbon Task Force recommendation for the weighted student unit of \$3,500. It is our request that the actual amount be closer to \$3,500 for the Indian School Equalization Formula.

We also would like to see an update from the Secretary of the Interior on the analysis of the BIA school system regarding the cost for achieving dorm standards as well as academic standards. There was a study that was mandated last year as part of ESEA reauthorization. This study is slated to be done I think by the end of April. So we need to get an update on that study.

For the Early Childhood Program, the Bureau is requesting approximately \$6.5 million for next year. This would not allow for any increase. We would like to see an increase in this program as well.

For student transportation needs, this really affects a lot of the remote reservation areas where students have to be bussed in for schooling. This area needs to be increased. Right now it is at \$1.71 per mile and we're requesting that this be increased to the national average of \$2.34 per mile.

The Solo Parent Program, the BIA wants to eliminate that as well. It is just a small amount of funding, just \$72,000. We would like to see that maintained.

Regarding facilities operation and maintenance, this is still \$19 million below the projected need in this area. There is a \$4.4 million increase proposed but it could be a lot more than that.

For Administrative Cost Grants, NIEA supports the proposed \$5.6 million increase. However, we are concerned that this might not be enough as well because four more schools have converted to the grant system and two new schools are scheduled to come in next year.

Tribal departments of education were authorized as part of ESEA's education budget. I believe the Education Department has put \$500,000 into the proposed budget but the real need is far more than \$3 million. So that needs to be looked at as well.

We support the testimony that will be submitted by the tribal colleges; President Margaret Perez will be submitting that. We support their request for funding at the Indian student count level of \$5,820 for the 31 tribally-controlled community colleges in the country as well as \$10 million for their college endowments and \$2 million for emergency facilities and repairs. Another important thing is the reauthorization of the Carl Perkins Vocational Education Act. We support the tribal colleges in this effort. We also want to try to maintain I believe the 1.5 percent set aside for tribes in the Perkins act.

For graduate scholarships, an area that I am really concerned about since I did direct the Graduate Scholarship Program, we need a funding level of at least \$3.5 million. The Bureau has requested \$2.7 million and this is about \$6 million below what the need is. The graduate center says that their documented student need for 1994-95 is \$8.4 million. So this is only meeting about 25 percent of the need.

Regarding school construction, we support the Bureau's increase in that area. But, as President Gaiashkibos said, we need more funding in that area because there are a lot of tribes that would like to see new school starts this year and beyond. Regarding education facilities improvement and repair, we don't support the reduction of \$7.5 million from the 1995 enacted level since there is a backlog of over \$5 million in this area.

I understand the Department of Education wasn't able to testify at today's panel discussion, but we have looked at their budget. Secretary Riley mentioned in his speech that he is proposing to eliminate or consolidate about 30 percent of the 240 programs in the Department. One of our major concerns is that he doesn't consolidate the Office of Indian Education programs. I think there is already an effort to try to do that with the organization of regional teams within the Department and asking OIE staff to share responsibility for areas like even start, chapter 1, and migrant education. We don't want to lose the real focus of the Office of Indian Education programs. So we oppose any piecemeal dismantling of this office.

Again in support of the Indian Fellowship Program, the Department is proposing to take \$732,000 out of that program and put it into educational/professional development, bringing that amount up to \$5.9 million. We don't support that reduction because there are all kinds of other areas of study that need to be looked at other than just teacher training. The Indian Fellowship Program funds people for degrees in natural resources, in business administration, all kinds of other areas that tribes really need. So we would like to see the \$732,000 put back into fellowships. Even with that, the Professional Development Program would still get an increase.

We also would like to see the Department get out the applications for this year. Those aren't even out yet. Normally, they go out the end of December or the first of January and there are at least 2,000 people on a waiting list for applications for this coming academic year. So those need to be gotten out and the fellowships awarded by August.

For adult education in the Department of Education, we feel that the real need here is \$10 million and they are proposing no increase for fiscal year 1996. Last year, we worked on trying to get reauthorization of the Indian Education Technical Assistance Centers. These are all due to expire on May 31, 1995. We want to reiterate our concern that the 15 new megacenters really pay attention to the needs of Indian people in their delivery systems design, and also to make sure that the American Indian and Alaska Native people are hired to work at the megacenters once they are open. A lot of the title V directors are concerned that with the IETACs slated to go out of business at the end of May, there is a need to try to continue their services until these megacenters get operational. So we need to make sure that their contracts are extended at least through the end of the year or until the new megacenters are opened.

For impact aid, we would like to see a restoration of the \$70 million previously cut from the 1995 appropriations bill. We support the National Indian Impacted Schools Association in all of their efforts. I think they appeared before this committee and other committees last week and the week before.

Three areas that we didn't mention in our written testimony. One is tribal libraries. We need to try to get that money restored for tribal libraries because the Department is proposing to take out the 1.5 percent set aside for these as well as funding for the Alaska Native Cultural and Education Act. Also, we support at least \$2 million for the Tribal Languages Act that is in the Administration

for Native Americans budget, and we support the ANA reauthorization. Thank you.

The CHAIRMAN. Thank you very much, Ms. Edmo. You have covered a wide variety of issues in a short period of time. Congratulations.

Senator Inouye.

Senator INOUE. Mr. Chairman, I thank you very much. All of the statements that have been made are very important. But oftentimes when people read the statements, they cannot quite get a picture of what is happening. For example, I would request that Mr. Pardilla submit to the committee 10 examples of the most potentially dangerous hazardous environmental problems. It is one thing to say that we have terrible environmental problems in Indian country, but it doesn't mean much to someone who is reading a report. Now, for example, I was horrified when I went to the village of Norvik in Alaska and I saw a pipe extending from the toilet of the school right into the lake and that toilet was carrying raw sewage that dripped into the lake. That lake emptied into the river, and from that river the people of the village got drinking water. One does not have to wonder why 90 percent of the people have hepatitis. So if you give us 10 examples of that type of pollution instead of just saying toxic pollution, that would be helpful. I do not know what you mean by that.

The same thing with housing. I know that we can describe housing as being outrageous and unacceptable, but maybe a few photographs would be helpful. Tell us where they are, what villages, how many people live in one room, whether you have water or toilet facilities, do the roofs leak.

Another thing that I noted in the Arctic Circle, from the outside, the homes looked very nice but they were all designed somewhere in Arizona for the tundra. And because the architect there was very much concerned about the cold winter wind, the windows were built 5 feet above the floor so that the Natives would not be hit by this cold wind. There was one entrance into each house and at the entrance is a stove and a kitchen where the fires usually begin. And so the Natives are trapped in the back rooms of the house, windows 5 feet from the floor, and the whole house is on stilts about 6 feet above the tundra. And we wonder why when children and elderly people have to jump out of the window, they break their necks or break their legs. I would like to know if Natives provide an input on the design of these houses or are they still designed in Arizona.

These are things I would like to get from you. I want to have a graphic picture that all of us can share with each other and, more important I think, not just this committee, but with the Nation itself, because people may see this and say this is really outrageous. It is one thing to say it is outrageous, but draw a picture for us. Thank you very much.

[Referenced material appears in appendix.]

The CHAIRMAN. Thank you very much, Senator Inouye.

Ms. Johnson, I was pleased that we had such a spirited and prolonged discussion with Secretary Cisneros. I don't know if you were here for that or not; were you?

Ms. JOHNSON. I was at NCAI but I was briefed.

The CHAIRMAN. I was very impressed with his commitment. I was very impressed with the fact that he has been out to visit Indian country. I was also impressed with his grasp of the issues. So, although having been disappointed many times in the past, I have some guarded optimism as to the commitment of HUD on the issues that you are deeply concerned about. And thank you for pointing out in your written statement the housing conditions in my home State of Arizona. I appreciate that very much.

On the issue of Davis-Bacon, did I hear you say you supported revocation of Davis-Bacon?

Ms. JOHNSON. Yes.

The CHAIRMAN. How significant is the impact of Davis-Bacon in your view, and has it lessened over the years?

Ms. JOHNSON. It has gotten mixed feelings in Indian country when we bring up this issue for resolutions at National American Indian Housing Council annual meetings. But one of the problems that we have been having is trying to deal with Indian Health Service and tribal governments and then housing authorities all having different labor requirements. So it makes it very difficult in our communities to be able to develop a standard of wage rates. I think it is something that if we're going to endorse tribal taro efforts, if we're going to endorse the tribal governments to be able to make those efforts, then we need all Native communities to be able to support those efforts.

The CHAIRMAN. The problem that I have had with it over the years, if HUD uses a formula that says we are going to spend \$40,000 on each house on, say, the Navajo Reservation, and you are paying inordinately high wages because, in the case of Arizona, you are paying Phoenix wages up in Window Rock, then that house is by some proportion smaller and less goes into it. Do you see validity to that argument?

Ms. JOHNSON. Oh, very much so. Yes.

The CHAIRMAN. And in your statement did I also hear you say you support rent ceilings?

Ms. JOHNSON. I support rent ceilings but I don't support them in exclusion of getting rid of the 30 percent rule. I don't think the 30 percent rule on ceiling rents, as HUD proposes all the time to be able to take care of that, resolves the issue. Ceiling rents only makes it possible for us to be able to have people with—there is no housing for people with even moderate incomes in Indian country many times, and without a ceiling rent they pay an enormous size rent and aren't able to save some money so they can get a unit of their own. Whereas, the 30 percent rule is different because the expendable income for the very, very low is still greater in many of the rural and remote parts of our villages and our reservations. And so a cost of buying milk in one of our reservations versus an urban center where there may be perhaps public housing, they wouldn't like me saying this, the expendable income after 30 percent in an urban center versus a rural or remote community is definitely different. And our people at such low poverty levels, what is left after 30 percent after they pay their rent gives them very little for the basic necessities of life.

The CHAIRMAN. Well, I would like to explore this with you further as we proceed with this issue. In a perfect world where there

are people who are willing to come in and build housing where there is a demand, we have found that rent ceilings have been a disincentive to people to come in and build because the low return on their investment. At the same time, if you have no other competition, in an imperfect world, which is what exists on Indian reservations today, and you have a monopoly on what is available, then price gouging and other things ensue. So I am somewhat ambivalent on the issue and I would like to pursue it with you further.

Ms. JOHNSON. Definitely, I would too. Just like you said, rent ceilings in an imperfect world, and that is exactly what we have. What we're trying to do is make the housing so it is affordable and, unfortunately, many of our people move out of our rental projects because it isn't affordable to them. They cannot afford the rent, yet this is supposed to be low income housing.

The CHAIRMAN. Thank you.

Mr. Pardilla, you mentioned that the States have received far more in EPA baseline funding than have tribal governments. I am in total agreement. What should be the level of funding in your view as a percentage of the EPA budget?

Mr. PARDILLA. I don't have a set percentage in mind.

The CHAIRMAN. Would you submit that for the record, a rough estimate of what you think that percentage should be. I would be interested in knowing what you think an appropriate percentage would be.

You note that the \$6.5 million increase requested by EPA will not meet the tribal need for General Assistance Program funds and you reference a statutory minimum of \$75,000 per tribe in your statement. What in your view is the total need, not just minimum need, of tribes for these funds on an annual basis? Perhaps you may want to submit that for the record as well.

Mr. PARDILLA. The number that I produced there is just really a simplistic approach just to give an order of magnitude of what a baseline would be. That is if, from the tribal operations committee's point of view, there should be an environmental presence on every reservation, and if General Assistance Program moneys is the vehicle to do that, that the statutory minimum is \$75,000, and then take that minimum number and if all 550-plus tribes were to receive this minimum funding, that is what that \$41 million number represents. The tribal operations committee has been working with a number on the order of \$100 million, and I believe that is working through their committee structure now to make that as a recommendation.

One of the things that they clearly were working against was either raising the ceiling of \$15 million for General Assistance Program moneys or eliminating it altogether. It is fortunate that for fiscal year 1996 that EPA has finally requested the full authorized \$15 million. It was difficult to even talk about raising that if EPA wasn't even requesting that level. But that, in essence, is what that \$41 million number is all about.

The CHAIRMAN. Thank you.

Mr. Lester, I read your statement with interest, and it is a very detailed and informed one and one that I think obviously is a product of your many years of experience. Is it your basic point that

tribal regulations should replace Federal regulation of energy resources? In other words, what is the relationship there?

Mr. LESTER. There are two levels generally in America at which energy is regulated; the Federal level and the State level. With respect to the State, tribes should absolutely replace State regulatory authority. With respect to Federal, there needs to be a Federal-tribal partnership with the regulatory activities on the ground being performed by tribal agencies or agents of the tribal government, supported by the Federal regulatory infrastructure. One of the reasons for that is that we lack, as you know, sufficient punitive powers over non-Indians to compel compliance to many of the laws of the land as they are broken on our lands. So we will need significant support in enforcement areas from the Federal regulatory power. So that's why we feel very strongly that it should be a partnership between the tribe and the Federal regulatory authority.

The CHAIRMAN. Thank you.

Chairman Gaiashkibos, you testified that fully 20 percent of the BIA's requested increases will go to BIA overhead expenses. You also heard BIA testify that it spends only 14 percent on overhead and the rest goes "directly to reservations," to use their words. Do you agree with the BIA's calculations on its overhead?

GAISHKIBOS. Mr. Chairman, I believe the BIA doesn't even have a handle itself on the total amount of dollars in the overhead that it has for Central Office. But in our calculation, and I don't believe that was stated in the Bureau testimony, there is actually an increase of 19 FTEs where you see a streamlining throughout the area. So, no, I would dispute that.

The CHAIRMAN. Could you provide us with any documentation you might have as to what your calculations are as to how much actually goes to an Indian tribal government or tribal member?

GAISHKIBOS. We will have our staff work on this and submit this as an addendum to our testimony, Mr. Chairman.

The CHAIRMAN. Thank you.

GAISHKIBOS. This might take some time. I just want to state that.

The CHAIRMAN. That's fine. I think it is very important that we get a handle on that because I think if your view and mine is correct, that it lends a certain urgency to the efforts that we are going to make in regards to the BIA. If their numbers are correct, and I don't think they are correct, then I don't think those efforts are quite as urgent. And if their numbers are correct, I will suggest to them, and have suggested to them, that they get that information out because that is not the view that most of Indian country has.

GAISHKIBOS. That's correct.

The CHAIRMAN. You note the FTE cuts that the Department of Health and Human Services proposes to impose on IHS. Last year, very frankly, as I mentioned earlier, Senator Inouye and others were responsible for the restoration of a lot of that funding but Senator Inouye and I acted in response to the outcry from the tribes. Do you believe that there will be similar response as last year from the tribes?

GAISHKIBOS. Yes; In fact, it was like pulling teeth a little bit up here, and I appreciate your questions to Dr. Trujillo. From the initial position that he stated, it was OMB directive, et cetera, et

cetera. And from 160 to 240 FTE, yes, you're going to hear that response from the tribes, Mr. Chairman.

The CHAIRMAN. Good. I want to again reiterate what I said to the NCAI at our meeting. We will use the Indian Task Force recommendations, not the BIA streamlining proposal as a basis for our attempts at reformation of the BIA. I hope that they all know that and we will try to consult with them. But it seems to me that the requirement for consultation is not as great as if we were starting from ground zero. We have a tribal document to start from, okay. But we do want to move forward on BIA reorganization.

So here's the problem. I want to move forward, we have got a tribal document to move forward with, there will be some of the recommendations which are now seen as having near unanimous tribal support that once we try to implement these recommendations we will face resistance from some of the tribes because we all know that all tribes are not the same. They have different priorities, different regions, different cultures, many differentiations. So I am counting on your support to help me when we get to the point where some tribe says "Wait a minute. We never agreed with this to start with and you didn't consult with me." Because you and I know that happens quite frequently. If we allow one ship in the convoy to slow down the whole train—I'm sort of mixing a lot of metaphors here. [Laughter.]

Then we will not make progress. So I will be counting on you to shield me to some degree when the flak starts. All right?

GALASHKIBOS. Mr. Chairman, let me say this. Not all tribes are members, as you know, of the National Congress of American Indians. However, your message was received and heard well and clear. We very much appreciate your efforts. I also want to say that tribes are not opposed to streamlining and making Government more efficient. We just want to be a partner in this process. And, yes, the starting point will be through the Task Force recommendations, and I believe that has been embraced by all of the tribes. In fact, the National Congress passed a resolution just on Tuesday supporting that effort and the process where there are three representatives from each area, which would be 36. I know that process is no longer in existence, but it is already there and the tribes have this mechanism for input. So that is the starting point. We are not recreating this whole process or reinventing the wheel. And yes, the National Congress will work with you.

The CHAIRMAN. Thank you. One thing that Senator Inouye and I have learned over the years, we will not proceed without the full cooperation and assistance of the tribes. So that is why I make this plea to you.

Ms. Edmo, thank you for coming this morning. Don't worry about being late. We're late all the time. That's the way we do business around here, unfortunately. [Laughter.]

You testified that Johnson-O'Malley funding is going down even as the number of students is going up. Obviously, this must mean that the funding per student is going to drop. Is that correct?

Ms. EDMO. Right. The latest figure we had was that right now there is only \$94 per student being spent in the Johnson-O'Malley program but that next year there will be at least a 5-percent increase in the number of students that will have to be served. So

we just have to assume that the funding for students will go down. If there is no increase, it will go down probably to about \$85 per student.

The CHAIRMAN. Following up with what Senator Inouye said, we would like to have some pictures of the conditions of some of the schools as well, some graphic demonstrations. We know that there are schools out there that have been listed as "uninhabitable," schools that have been listed as condemned that are still having to be used. And so if perhaps I might followup on Senator Inouye's request, maybe you could send us the 10 worst examples of schools in Indian country today. We would appreciate that. It helps us, very frankly, when we go out to non-Indian country in areas that have no contact at all with Native Americans and the sum total of their knowledge of Native Americans is seeing "Dances with Wolves." And although that is a very educational experience for them, it doesn't help us on Indian education issues. So I would appreciate it if you would provide us with that.

Ms. EDMO. Okay. We can do that.

[Referenced material appears in appendix.]

The CHAIRMAN. And I appreciate your statement, your counterpoints to the administration proposals. It helps us a great deal by having the kind of comparisons that you have drawn.

Also, it is pointed out to me by the staff, fire protection is a crisis in many of the schools in Indian country. If you could provide us some examples of that as well, we would appreciate it.

Ms. EDMO. Okay. We do have a partnership with the Dakota Area School Boards Association as well as the Association of Contract Tribal Schools and they are working together to develop a video on the condition of Indian schools. So we can make that available once it is ready. We are trying to get ready for a summit on Indian education that would be the third week of March. I think that NCAI will be getting you an invitation to speak to that group, if they haven't already, and we will be trying to have that video available during that summit meeting.

The CHAIRMAN. I look forward to it.

I want to thank all of you for coming this morning.

Senator Inouye, would you have anything further?

Senator INOUE. Mr. Chairman, to underscore your concern about conditions in schools, I was just reminded that 6 years ago I visited the Rosebud Sioux Reservation. At that time, I was asked to address a group of students and they were all meeting outside in the yard. It was a nice day so I thought this was the way it is done. Then I asked to inspect the facility and noted that no one was in the school building. It was then that I learned that the building was condemned because of asbestos.

The CHAIRMAN. They didn't want the death of a Senator on their hands [Laughter.]

Senator INOUE. In order to inspect the facilities, I had to cover myself and put on a mask because of the raw asbestos that was found all over the building. Well, that was fixed. But if I had not seen that and if the committee was not made aware of that, I suppose it would still be there. So what I am trying to suggest to you is that what Chairman McCain has indicated is very important. We

have to be able to see and to feel your chagrin and your anger and your sadness.

Mr. Pardilla, the fiscal year 1995 committee report of the Appropriations Subcommittee on Labor, Health and Human Services, directed the National Institute of Health and the Institute of Environmental Health to work together with your organization to come up with a report on how best to identify environmental health hazards in Indian country. Have you been called upon to do this?

Mr. PARDILLA. At this point, Senator, we have been working with NIEHS in that they have partially helped fund our national conference and are helping us to do strategic planning for our member tribes. But, as yet, we haven't been working on a report to detail the extent of environmental problems in Indian country. But we have begun our initial relationship building with NIEHS.

Senator INOUE. Well, the fiscal year is about half over. I would have hoped that by this time they would have started the process. But they have not started it yet?

Mr. PARDILLA. Not yet.

Senator INOUE. Thank you very much.

Well, I have the privilege of closing this hearing. So I join my Chairman in thanking all of the witnesses for their most important statements. I can assure you that all of us will study your statements very carefully. Without objection, your full statements will be made a part of the record.

Ms. JOHNSON. Mr. Chairperson, I would like to let you know that I will submit my stuff for a part of the record.

Senator INOUE. It will be made a part of the record.

With the gratitude of the committee, this hearing is adjourned.

[Whereupon, at 11:33 a.m., the committee was adjourned, to reconvene at the call of the chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA

Mr. Chairman, I would like to thank the representatives from the various agencies for testifying before the committee today.

Of special concern to me is the Bureau of Indian Affairs' Housing Improvement Project. At a later date, I will submit specific questions for the BIA pertaining to HIP. Today, however, I am just pleased to be able to hear the agencies' testimonies and requests.

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO

Thank You Mr. Chairman. I want to welcome the administration officials who are here today. You come before this committee during a time of great transition. As each of the federal agencies begin to re-evaluate, reorganize, and streamline its programs, with an overall goal of being more efficient and productive, the questions not yet answered are; what are the long term impacts going to be as a result of this transformation?

Importantly, this committee is charged with the responsibility of representing the Indian voice. While the Indian voice is not a large or loud voice in our society, it remains that the federal government has a unique legal obligation with Indian tribes, and Indian people. I need not elaborate on the historical relationship between the federal government and Indian people, only to say that federal policies have been inconsistent and vague.

So it is in this context, that I would remind each of you and encourage you to listen to the voice of Indian country during this time of great transition.

While I have just a few questions, which I will ask at the appropriate time, I look forward to hearing the testimony from our distinguished witnesses.

Thank you.

PREPARED STATEMENT OF MICHAEL H. TRUJILLO, M.D., M.P.H. ASSISTANT SURGEON GENERAL, DIRECTOR, INDIAN HEALTH SERVICE

Mr. Chairman and Members of the Committee:

I am Dr. Michael H. Trujillo from the Laguna Pueblo, New Mexico. I am the Director of the Indian Health Service (IHS). Accompanying me today are Mr. Michel E. Lincoln, Deputy Director; Ms. Luana L. Reyes, Acting Director of Headquarters Operations; Dr. Phillip L. Smith, Associate Director, Office of Health Programs; and Mr. Gary Hartz, Acting Associate Director, Office of Environmental Health and Engineering. We are pleased to be here to discuss the fiscal year (FY) 1996 budget request for the IHS.

I began my career as a primary care physician at an IHS facility near the reservation where I grew up in New Mexico. My directorship of this Agency began less than a year ago. My appointment on March 28, 1994, followed unanimous confirmation by the Senate. I was sworn in as Director on April 8, 1994, by Dr. Philip Lee, Assistant Secretary for Health and moved to Maryland in June. For the past seven (7) months I have begun to prepare this Agency to enter a new era of health care delivery and to strengthen the partnership with tribes in determining how those services will be delivered.

Providing health care to Indian people is an honor and distinct privilege. The Agency has been fortunate to have employees who are dedicated to the key mission of the Agency: that is to raise the health status of American Indians and Alaska Natives (AI/ANs) to the highest possible level. Three employees who exemplified this dedication and commitment were Dr. Christopher Krogh, Dr. Ruggles Stahn, and Dr. Arvo Oopik. All three physicians lost their lives last year while delivering health care to rural areas in the Dakotas. This year we are dedicating our health care efforts in their memory.

The IHS, unlike any other Federal agency, is committed to carrying out the Federal responsibility of providing high quality health services to AI/ANs. Numerous treaties, statutes, and executive orders have established and confirmed this Federal responsibility. During the 1970s, two historic legislative bills, the American Indian Health Care Improvement Act and the Indian Self Determination and Education Assistance Act, were passed by the Congress and enthusiastically endorsed by the President which fundamentally effected and clearly established the IHS mission and goals and clarified the commitment and responsibilities of the Federal government with regard to: 1) Indian self-determination based on the special and unique relationship that exists between the Federal government and tribal governments and 2) Indian health by committing to raise the health status of AI/ANs to the highest possible level. President Clinton reaffirmed the government-to-government relationship in a meeting with Indian leaders at the White House last April. The President directed Federal agencies to consult with tribal governments on any action affecting Indian people. His directive re-enforces the intent of the Congress when it passed the Indian Self-Determination Act in 1976. This legislation is a cornerstone of Federal/Tribal relations and reaffirms the government-to-government relationship between the United States and Indian Nations.

The Congress has continued to refine and expand opportunities for tribes and Indian communities to deliver health care to their own people. The number of tribes and urban Indian organizations assuming the responsibility of delivering health services has steadily increased and has now reached an unprecedented level: one-third of the Agency's annual appropriation is invested in the delivery of health services by tribal governments. The balance of those appropriations are utilized by the IHS to provide direct services to sovereign Indian Nations that also exercise their right to self-determination by choosing to have the Federal government provide those health services and by urban Indian health organizations pursuant to Title V of the Indian Health Care Improvement Act.

The IHS like other health care providers is facing ever increasing costs in delivering health care. The IHS provides services to approximately 1.4 million AI/ANs residing in urban, remote, rural and isolated areas in 34 states. The cost of providing care in urban areas (where there is a health care infrastructure) is significant, but less than the cost of providing care in rural and isolated areas where there is no infrastructure.

The IHS service population is unique. Tribal culture, family, traditions, religion, and values that are passed from generation to generation dictate the need for specialized methods of delivering appropriate health care in a variety of settings. The many diverse AI/ANs cultures have survived and co-exists within a dominant society that has sometimes aggressively tried to alter or even destroy it. The fact of our survival and existence requires and deserves culturally sensitive program delivery.

The partnership of the Congress, tribal governments, Indian organizations, and the IHS has resulted in significant improvements in the health status of Indian people. For example, the age-adjusted death rate among AI/ANs because of gastrointestinal diseases declined by 81 percent since 1973. This success is due to the IHS sanitation facilities construction program. The age-adjusted death rate of tuberculosis has declined by 74 percent for the same period. This success is related to extensive IHS, tribal, public health and community outreach programs. The maternal and child health programs. The age-adjusted death rate because of accidents declined by 54 percent, a success related to innovative tribal and IHS injury prevention programs. The IHS has achieved immunization rates of 93 percent for 2-year

old Indian children. A rate that exceeds the average of 70 percent for the U.S. all races population.

These accomplishments prove that working in partnership with local Indian communities does work. They also prove that providing the full continuum of care including public health, prevention, and acute care pays dividends in improved health status, and that community outreach programs designed to encourage individuals to be responsible for his or her own health can succeed. However, there still remains a large gap between the health status of AI/ANs and the dominate society. All of us together, must close that gap.

Like the rest of the nation's health care systems, the IHS must manage in an environment of increasing health care costs, growing service population, and diminishing resources. It is, therefore, imperative that the IHS manage its resources efficiently. Recently, I articulated my vision for a new IHS to the stakeholders in Indian health. My vision includes designing an organization that will have fewer layers of management, while directing resources to the local community. I recognize that operations must become more efficient commensurate with changes in laws, regulations, and technology. Fewer layers of management will reduce the overhead functions of the Agency, and, as a result, we're looking at ways to improve services to our customers by transferring positions and staff to local programs.

The IHS is changing, but this change must be undertaken through partnership with the more than 500 Indian Nations. To initiate the process of change, I embarked upon discussions with IHS customers and employees in October of last year. I convened a customer-dominated group to design a new IHS that will result in improved delivery of services. The group is the Indian Health Design Team and it will guide the process of change. The process will have the active participation of tribal leaders, IHS customers and employees, and health care professionals. This process reaffirms the sovereignty of Indian nations and the right of Indian people to quality health care throughout the United States.

The call for changes in the IHS is not only coming from the Administration and the Congress, but from tribal governments as well. For example, in response to tribal leaders' desire for more control of its programs and resources, the Congress amended the Indian Self-Determination Act last year to allow up to 30 additional tribes each year to compact with the IHS to provide their own health care based upon their own priorities and design. Depending on the availability of funding, more tribes are expected to assume their share of the Federal responsibility for their health care. Under this self-governance demonstration authority IHS must reduce its administrative costs and transfer those functions and funds to those compacting tribes.

In the coming year, we will emphasize programs in elder care, youth substance abuse prevention, child abuse prevention, and women's health. We must continue to maintain our accomplishments in elevating the health status of Indian people. With the partnership between the IHS, tribes, Indian organizations, and the support of the Congress, we will strive to be the best community oriented primary care, rural health delivery system in the country.

The President's budget requests a program level of \$2.3 billion which is a 4.5 percent increase over FY 1995. This request of \$2.3 billion includes \$2 billion for health services and \$247 million for health facilities. It includes increases of \$91.3 million to allow for the continuation of the FY 1995 program in FY 1996; \$10.8 million to staff and operate newly constructed facilities; \$10.5 million for program expansion in Information System Initiatives, Women and Elder Health, Epidemiology Centers, Child Abuse, Contract Health Services, Urban Health and the Indian Self-Determination Fund. The request includes \$11.2 million to complete the construction of the Hays, Montana and White Earth, Minnesota Health Centers.

The Indian Health Service is committed to current efforts to streamline and reinvent the Federal government. Participating in this important initiative will, without a doubt, affect our resources and, ultimately, the delivery of health care. If the IHS' applied expertise in core public health functions critical to elevating the health status of AI/AN is diminished, the progress achieved in reducing the disparity in health status will be lost. The challenge before all of us—IHS, Tribes, Congress—is to design a more efficient and effective IHS so that we do not lose momentum in our fight to improve the health of AI/ANs. We are prepared to, and indeed have, began to take on this challenge. However, it is important to remember that we are dealing with sovereign nations. The ramifications of any change in the delivery of Federal services to these populations requires extensive consultation and involvement with these sovereign governments.

Mr. Chairman, this concludes my statement. We will be pleased to answer any questions that you may have. Thank you.



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February 13, 1995

TO: Senate Committee on Indian Affairs
Attention: Steven J.W. Heeley

FROM: Roger Walke
Analyst in American Indian Policy
Government Division

SUBJECT: Indian-Related Federal Spending Trends, FY1975-1996¹

This memorandum responds to your request that we update the analysis of Indian-related budget areas produced in previous years to cover fiscal years 1975-1996. This study updates analyses presented in the Appendix of the Committee's publication *Budget Views and Estimates* for fiscal years 1989 (S. Prt. 100-116), 1991 (S. Prt. 101-89), 1992 (S. Prt. 102-32), and 1993 (S. Prt. 102-91) and included in the Committee's materials printed in the Senate Budget Committee's report on the concurrent budget resolution for FY1995 (S. Rept. 103-238).

The memorandum summarizes trends in most Indian-related areas of the Federal budget over the period FY1975-1996. The budget items selected usually account for two-thirds to three-quarters or more of total Federal spending each year on American Indians and Alaska Natives.

The trends are summarized in tables 1-4, and selected trends are illustrated in graphs 1-26. Both tables and graphs are based on the data in appendix tables 1-2. For each budget area, tables 1-4 show the following measures:

- the average level of spending in each year over the time period;
- the annual change (i.e., the annual trend) in such spending;

¹ Andorra Bruno, Analyst in American National Government, assisted in gathering data for FY1975-1995. Garrine Laney, Analyst in American National Government, and Megan Perry, Intern, assisted in gathering the data for FY1975-1991.

CRS-2

- the ratio of the annual change in spending to the average level of spending (called the "change ratio"); and
- an indicator of the consistency of the annual change.

Table 1 covers the period FY1975-1996, using current dollars. Table 2 covers the same period using constant, or inflation-adjusted, 1993 dollars. Tables 3 and 4 present the same current- and constant-dollar data for the period FY1982-1996.

This memorandum emphasizes constant-dollar figures. Since such figures are adjusted for the effects of inflation, they are better indicators of real changes in spending.

This memorandum is not intended to be a complete analysis of all the Indian-related budget items selected. Rather it is meant to compare trends in major budget items affecting the nation's Indian population (particularly those programs targeting Indians in federally recognized tribes), on the one hand, with trends in parallel budget items affecting the entire U.S. population. After a discussion of methodology and sources, the memo focuses on budget items in four topical areas — education, health, housing, and economic development and employment training — before examining overall trends.

METHODOLOGY AND SOURCES

The Indian-related budget items chosen for this analysis are the Bureau of Indian Affairs (BIA), and some of its components, in the Department of the Interior (DOI); the Indian Health Service (IHS) and the Administration for Native Americans (ANA) in the Department of Health and Human Services (HHS); the Office of Indian Education in the Department of Education; the Indian Housing Development program in the Department of Housing and Urban Development (HUD); and the Indian and Native American Employment and Training Program (INAP)² in the Department of Labor. According to figures from the Office of Management and Budget, these agencies annually accounted for about 72 percent of estimated Indian-related spending government-wide in the period FY1988-1995.

² The Indian and Native American Employment and Training Program was authorized by Section 401 of the Job Training Partnership Act (JTPA) of 1982 (P.L. 97-300) and began its expenditures in FY1984. JTPA's predecessor, the Comprehensive Employment and Training Act (CETA), included a similar Indian employment and training program. This memo uses CETA Indian program spending for the period FY1975-1983 and INAP spending for FY1984 to the present.

For the BIA program categories chosen for the analysis — education, economic development, natural resources, and tribal (formerly "Indian") services — the memo contains a break in the continuity of the time-series data. The BIA restructured its budget presentation for FY1994, based on recommendations from the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization. The general categories of education, economic development, natural resources, and Indian services, under which specific programs were grouped in previous budget presentations, are not used as general categories in the restructured budget presentation. While the BIA has applied this restructured presentation to its FY1993 budget, it has not done so for earlier years. Hence the time-series data for BIA component programs are internally consistent for FY1975-1992 and for FY1993-1996 but may not be consistent between the two time periods. In this memo we re-grouped FY1993-1996 data for relevant BIA programs into the general categories of education, economic development, natural resources, and Indian services.³ We stress that these re-grouped (or revised) data for BIA components for FY1993-1996 represent estimates and are not consistent with earlier years. Hence computations and statistics for these BIA components for FY1975-1996 and for FY1982-1996 are also estimates.

Spending by agencies is measured in this memo in terms either of appropriations (or budget authority) or of outlays, depending on data availability and on past usage in the Committee's study of FY1989. Indian housing data have been available as "use of budget authority," and this year we have added budget authority data in measuring Federal spending on housing in general. (Outlays and budget authority diverge from each other more in housing, with its multi-year spending patterns, than in other budget areas.)

To adjust for inflation, current-dollars figures were changed into constant dollars. The base year for the constant dollars was 1993, and the inflation index used to compute constant dollars from current-dollar figures was the Implicit Price Deflator for the Gross Domestic Product (GDP). We chose Implicit Price Deflator (IPD) instead of the Consumer Price Index (CPI) because the former accounts for inflation in the entire economy rather than just in consumer purchases, and hence is more appropriate for the full range of Indian budget areas.

³ The re-grouped figures for FY1993-1994 for these BIA components generally produced budget figures that were markedly higher than figures for FY1992. This suggests that analytical statistics for these BIA components based on the FY1975-1995 time series may be skewed, either up or down.

Statistical Measures

The *average*, or mean, *level of spending* during the period FY1975-1996 was computed by dividing total spending over the time period by the number of years.

Annual change (annual trend) and trend consistency over the FY1975-1996 period were both determined by a time-series linear regression analysis. Such an analysis attempts to find the best straight line illustrating the relationship between a variable (here, a budget item) and time. The *annual change* is the "slope" of such a straight line (the slope is also known technically as the "coefficient of X" or the "regression coefficient"). The slope, or annual change, shows how much the spending on a budget item changes for every year that passes. *Trend consistency* is the "coefficient of determination," or r^2 , generated by a regression analysis. Here, r^2 can be interpreted as follows: if the r^2 is high (i.e., closer to 1), then the trend, whether up or down, is very consistent; if the r^2 is low (closer to 0), then the trend is very irregular.

Change ratio denotes the annual change divided by the average level of spending. This is to control for the fact that the size of a budget item's annual change varies with the total amount of dollars spent by an agency. For instance, an annual change of \$10 million for an agency whose average spending is \$100 billion a year constitutes a much lower increase, proportionally, than the same \$10 million increase for an agency whose average spending is \$50 million a year. The change ratio allows one agency's annual change to be compared to that of another agency while taking relative budget size into account.

Sources

Sources for budget data are the respective agencies and the annual *Budget of the United States Government* submitted by the President. Budget data collected included historical appropriations and outlays and FY1996 budget estimates, by agency and by budget function⁴ category. Agencies previously contacted include the BIA, IHS, ANA, HUD, Education Department, Interior Department, and Labor Department. HUD was not able to provide Indian Housing Development Program data for FY1975 and FY1977 because the data had been archived.

U.S. population data came from the *Statistical Abstract of the United States* and the Census Bureau's Current Population Reports (Series P-25, Nos. 1104 and 1125). We used the figure for total U.S. population, including Armed Forces abroad. Indian population data came from the Indian Health Service's

⁴ Budget functions represent classifications of budget expenditures by major objectives and operations, regardless of the agency responsible. Budget functions are further divided into budget subfunctions.

Trends in Indian Health 1993 and IHS projections, and are based on that agency's service population. IHS population estimates are updated annually.

Historical figures for the Implicit Price Deflator for GDP were obtained from the *Economic Report of the President* (February 1994) and the Bureau of Economic Analysis; projections for 1995 and 1996 came from Data Resources, Inc. (DRI).

EDUCATION

Education data from table 1 show that Indian education spending appears to have been growing from FY1975 to FY1996. The annual change for BIA education, for instance, shows an increase of \$13.6 million per year, for a positive change ratio of 4.19.⁶ These figures, however, are in current dollars. Inflation has not been taken into account. The constant-dollar figures in table 2 do take inflation into account. These data show that BIA education has actually fallen by \$3.8 million a year, for a negative change ratio of -0.86, during the period FY1975-1996. This pattern — an increase in current dollars and an actual decline in constant dollars — is repeated in most Indian-related budget areas.

Table 2 shows that the U.S. Department of Education budget has averaged \$23.7 billion in constant 1993 dollars during FY1975-1996 and has grown at a rate of \$410.1 million a year (1.73 change ratio), but with some annual variation (r^2 of .557). In contrast, Office of Indian Education (OIE) programs in the Department of Education, which averaged \$97.9 million a year in constant dollars, fell \$2.9 million a year over the same time period (-2.95 change ratio). The r^2 figure for the OIE in the Education Department (.721) shows that it has fallen fairly consistently over the time period.

Table 4 compares budget trends in constant dollars during the period FY1982-1996. The Department of Education has averaged \$24.5 billion with an increase of \$675.4 million a year (2.76 change ratio). BIA education has increased \$11.1 million a year (2.76 change ratio), the same rate as the Education Department as a whole, while the Office of Indian Education in the Education Department has fallen \$1.6 million a year (-1.92 change ratio).

Graphs 1-3 illustrate the trends in education in constant dollars for FY1975-1996. Graph 1 shows the generally upward, but fluctuating, trend for

⁶ Excludes BIA construction for education. As noted above, the time series for BIA education is not internally consistent because of BIA budget restructuring for FY1993-1996. In addition, FY1991 appropriations for BIA education programs included forward funding of \$208,900,000 for the 1991-1992 school year (July-June). For this analysis, these funds have been included under FY1991.

the Department of Education budget. Graph 2 shows a long downward trend with a recent recovery for BIA education, while graph 3 illustrates that the OIE in the Department of Education had a long-term downward trend that has recently leveled off.

HEALTH

Federal health outlays (i.e., the health budget function), as shown in table 2, averaged \$58.8 billion in constant 1993 dollars during FY1975-1996, increasing at a rate of \$3.7 billion a year, for a change ratio of 6.36. Expenditures of the Department of Health and Human Services (HHS), excluding Social Security payments and, this year, Social Security Administration administrative costs — but HHS still includes spending on more than just health — averaged \$168.8 billion in the same time period, increasing at \$9.75 billion a year (5.78 change ratio). Indian Health Service appropriations, in constant dollars, also increased during FY1975-1996, but at a lower rate: the IHS's annual increase was \$49.9 million, a change ratio of 3.85, on an average level of \$1.3 billion.

Spending on the health budget function during FY1982-1996, shown in table 4, was at an average level of \$68.5 billion in constant dollars during the period, with an annual increase of \$6 billion (8.76 change ratio). HHS outlays averaged \$198.2 billion, increasing \$12.9 billion (6.52 change ratio) annually. IHS spending showed slightly lesser gains during the same period, receiving annual increases of \$75.9 million per year, for a change ratio of 5.33, on an average level of \$1.4 billion.

Graphs 4-6 depict the trends in the HHS, health function, and IHS budgets for the years FY1975-1996, in constant dollars. They show that the increase over time was more consistent for HHS (r^2 of .919) than for the Federal health budget function (r^2 of .800) or the IHS (r^2 of .794).

HOUSING

Federal housing expenditure trends differ for outlays and budget authority during FY1975-1996. Outlays have generally risen, on either side of a sudden jump in FY1985, while budget authority fell from FY1975 before leveling off after the FY1985 surge. The trend in Indian Housing Development expenditures (as measured in "use of budget authority") differs sharply from that for Federal outlays for housing and more closely resembles that for Federal housing budget authority, except that Indian housing development has fallen more steeply. Table 2 shows that Department of Housing and Urban Development (HUD) outlays averaged \$23.0 billion in constant dollars from

FY1978 to FY1996⁶ and increased at an annual rate of \$301 million, for a positive change ratio of 1.31. Outlays for the Federal housing assistance subfunction increased even faster, rising \$829.5 million a year on an average level of \$17.3 billion, for a positive change ratio of 4.80. Budget authority for HUD, however, fell \$2.1 billion a year in constant dollars, for a negative -6.68 change ratio on average spending of \$32.6 billion. Budget authority in constant dollars for the housing assistance subfunction showed the same pattern, falling \$1.8 billion a year on average spending of \$25 billion for a negative change ratio of -7.01. The Indian Housing Development program, as measured by annual budget authority for new construction, decreased in constant dollars at an annual rate of \$66.3 million on average spending of \$533.8 million, for a negative change ratio of -12.42, a more steeply declining rate than for Federal housing budget authority as a whole. Graphs 7 and 8 illustrate the trends in both outlays and budget authority for HUD and the housing assistance subfunction. Graph 9 depicts the trend for the Indian Housing Program. Graph 10 combines HUD and housing assistance subfunction outlays with Indian housing development budget authority (attempts to include Federal housing budget authority data caused scaling problems in the graph).

Housing trends during FY1982-1996 are mixed compared with those for the longer period (see table 4). Indian Housing Development program expenditures in constant dollars decreased less rapidly than in FY1978-1996, falling at an annual rate of \$24.4 million (-7.53 change ratio) on an average level of \$324.6 million. Overall HUD outlays in constant dollars, on the other hand, were almost flat, increasing only \$99.2 million a year (0.41 change ratio) on an average level of \$23.9 billion. Housing assistance subfunction outlays in constant dollars grew faster than HUD spending — a change ratio of 3.06 based on increases of \$593.2 million a year with an average level of \$19.4 billion — but still lagged behind the rate for FY1978-1996. Budget authority trends for HUD and the housing assistance subfunction, in constant dollars, were much more positive in the FY1982-1996 period than in the longer FY1975-1996 period. As graphs 7 and 8 show, the greatest fall in budget authority for HUD and the housing assistance subfunction occurred before FY1984. (The decline in Indian Housing Development budget authority, as graph 9 shows, extended until FY1990.) HUD's budget authority in constant dollars declined only \$182 million a year on average spending of \$24.5 billion during FY1982-1996, a negative change ratio of only -0.74, while housing assistance subfunction budget authority actually rose in constant dollars, going up \$47 million a year on average spending of \$18.2 billion, for a slightly positive change ratio of 0.26.

⁶ The time period for housing data is shortened from FY1975-1996 to FY1978-1996 because of missing data for Indian housing development in FY1975 and FY1977.

ECONOMIC DEVELOPMENT AND EMPLOYMENT AND TRAINING

Economic development spending, in constant dollars, has declined during the period FY1975-1996 in both the overall U.S. budget and the Indian-related budget. Here we compare the U.S. community and regional development budget function with the BIA economic development program⁷ and with the Administration for Native Americans, which provides funding for social and economic development projects to Indian tribal governments and non-governmental Indian organizations. Measured in constant dollars, all three economic development programs have lost ground, but the Indian-related ones have fallen slightly faster. Table 2 shows that the U.S. community and regional development function has declined at an annual rate of \$426.3 million, for a change ratio of -3.65, while averaging \$11.7 billion a year in spending during this period. ANA expenditures, with an average level of \$47.2 million, have decreased by \$2.3 million a year, for a negative change ratio of -4.81. The BIA economic development program has fallen most rapidly, declining by \$4.9 million a year — a negative change ratio of -5.60 — on an average spending level of \$87.1 million. Graphs 11-13, and the respective r^2 s for the community and regional development function (.334), BIA economic development (.648), and ANA (.663), all show that the decline has been more consistent over FY1975-1996 for the Indian-related programs.

Economic development spending during the FY1982-1996 period, measured in constant dollars, has continued to decline, as shown in table 4, but not nearly as fast as in the longer period. The Federal community and regional development function during this period was nearly flat, dwindling by only \$4.5 million a year (negative change ratio of -0.05) on average spending of \$9.2 billion. ANA fell only by a negative change ratio of -0.74 (\$0.3 million a year) on an average level of \$36.5 million. BIA economic development went down the fastest, being reduced by a change ratio of -2.71 (\$1.7 million a year) on average spending of \$63.7 million. The downward trends were not at all consistent for any of these economic development measures during this period.

Employment and training expenditures, in constant dollars, also declined during FY1975-1996 for both general U.S. programs and Indian-related programs. The Federal training and employment subfunction fell at an annual rate of \$537 million, producing a negative change ratio of -5.44 on average spending of \$9.9 billion. The U.S. Department of Labor fell at a slower rate, its larger annual decrease (-\$897 million) generating a smaller change ratio (-2.27) on higher average spending (\$39.5 billion). The Indian and Native American Employment and Training Program (INAP) in the Labor Department had the largest negative change ratio, -9.23, based on an annual decrease of \$12.9 million

⁷ As noted above, the time series for BIA economic development is not internally consistent because of BIA budget restructuring for FY1993-1996.

and average spending of \$140 million.⁸ Graphs 14-16 depict these declines in employment and training expenditures.

The FY1982-1996 period saw not only a lessening of the rates of decline in employment and training expenditures in constant dollars for the Labor Department and INAP, but also an increase for the training and employment subfunction, as table 4 shows. The Labor Department's negative change ratio shrank to -0.78 because its annual decrease in constant dollars was only \$273.3 million on average spending of \$35.3 billion. The training and employment subfunction, on the other hand, showed a positive change ratio of 0.32, based on an annual increase of \$21.9 million and average spending of \$6.8 billion, both in constant dollars. INAP fell at a far higher rate than the Labor Department during FY1982-1996, losing \$3.4 million in constant dollars annually in spending for a negative change ratio of -4.53, based on average spending of \$74.2 million.

OVERALL BUDGET AREAS

This section compares trends over the time period for the total BIA budget, overall Indian-program spending,⁹ and the Federal non-defense budget¹⁰ as a whole, using both current and constant dollars. For the BIA, table 1 and graph 17 indicate an increase in spending in current dollars during FY1975-1996, with spending going up by \$48 million a year (change ratio of 4.05) with an average level of \$1.2 billion. Table 2 and graph 18, however, show that in constant dollars there was actually a decline in the BIA budget of \$12 million a year (-0.75 change ratio), on an average level of \$1.6 billion. A steady increase (r^2 of .827) in current dollars becomes, when corrected for inflation, an uneven decline (r^2 of .119) in constant dollars. As graph 18 shows, the unevenness results from a lengthy decline (in constant dollars) followed by a recent rise.

Overall Federal non-defense spending, however, departs from the pattern for Indian-related spending. Federal spending as a whole in current dollars went up during the period FY1975-1996, at a rate of \$40 billion a year (6.60 change ratio) with an average level of \$605.8 billion (see table 1). In constant dollars, Federal spending still went up, at a rate of \$19.1 billion (2.50 change

⁸ As noted above, the time series used here includes CETA Indian programs for FY1975-1983 and the INAP proper for FY1984-1996.

⁹ "Overall Indian-program spending" means here the six major Indian programs covered in this memo.

¹⁰ The Federal non-defense budget used here excludes both national defense expenditures and net interest payments on the national debt.

ratio) on an average level of \$765 billion (see table 2). Graphs 19 and 20 illustrate these upward trends in current and constant dollars.

The overall Indian-related budget returns to the same pattern as the BIA. Current-dollar spending during the FY1975-1996 period, as shown in table 1, went up at a rate of \$114.9 million a year, a change ratio of 4.15, on an average level of \$2.8 billion. Constant-dollar spending, however, is shown in table 2 to have gone down at a rate of \$18.6 million a year (-0.50 negative change ratio) on an average spending level of \$3.7 billion. The small size of the negative change ratio and the inconsistency of the trend (r^2 of .031) result from the same pattern as the for BIA — a long fall followed by a recent upward trend. Graphs 21 and 22 demonstrate the two trends.

Population data can be used to get a simple comparison of per-capita Federal spending between the overall U.S. population and the Indian population. Table 1 includes population data similar to the budget data. The data (which include projections) show that overall United States population increased at a rate of 2,356,014 people a year (0.98 change ratio) during the period 1975-1996, with an average level of 240,157,364 people. The Indian population (as measured by the IHS service population) is much smaller, with an average level of 996,931, but it has grown much faster, increasing at an annual rate of 38,514 persons, for a change ratio of 3.86.

To get a measure of per-capita Federal spending for each of the two groups, we took each year in the FY1975-1996 period and divided the overall Federal non-defense budget by the total U.S. population, and the overall Indian budget by the Indian population. We used current dollars for this measure. Graph 23 illustrates the resulting current-dollar trends. It shows that during the first ten years of the period the Federal government spent more per capita on Indians than on the population as a whole. After 1985, however, Indians received less expenditure per capita, under major Indian-related programs, than the population as a whole. Throughout the 1975-1996 period, per-capita spending on the U.S. population as a whole consistently increased, whereas per-capita spending on Indians through major Indian-related programs began to fall in 1979, with no significant upward change until 1990. Graphs 23A and 23B display the two populations' growth trends over the 1975-1996 period.

SUMMARY

The data show that Indian-related spending, corrected for inflation, has been going down in almost all areas. Among the Indian-related items examined for the FY1975-1996 period, only the IHS and two program areas within the BIA, natural resources and tribal services (which here includes the BIA's

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Housing Improvement Program), have avoided this trend.¹¹ In the FY1982-1996 period, however, the BIA natural resources program area changes to a negative trend.

The overall downward trend in Federal Indian spending is not obvious if one looks only at current-dollar data. One has to look instead at constant-dollar figures. The tables and graphs show that, in constant dollars, overall Indian spending has tended to go down over the full course of the FY1975-1996 period, while overall Federal non-defense spending has gone up. The latter years of this period, however, have seen upward trends in overall Indian spending in constant dollars, though not yet enough to change the annual change and change ratio to positive numbers.

When one looks not only at overall Indian spending but also at its major components — BIA, IHS, Office of Indian Education in the Education Department, Indian Housing Development program in HUD, ANA, and INAP — one sees from table 2 and graph 24 that, in constant dollars, **all** major spending items except IHS have declined during the period FY1975-1996. Moreover, a comparison in constant dollars of overall Indian spending and its major parts, on the one hand, with comparable budget items in the full Federal budget, on the other, indicates that most Indian-program spending areas have lagged behind their equivalent Federal spending areas. (See graph 25.) This is true even of IHS.

If BIA spending and overall Indian spending were both to decline in constant dollars at the same rates of annual change during the period FY1997-2000 as they did during FY1975-1996 (-\$12 million and -\$18.6 million, respectively, in constant dollars), as shown in graph 26, then by FY2000 overall Indian-program spending in 1993 dollars would have fallen from a proposed \$4.16 billion in FY1996 to \$4.08 billion in FY2000. BIA spending in 1993 dollars would have fallen from a proposed \$1.78 billion in FY1996 to \$1.73 billion in FY2000.

If you have any questions, or if I can be of further assistance, please call me at 707-8641.

RW:
Attachments

¹¹ As noted above, the time series for BIA natural resources and tribal services is not internally consistent because of BIA budget restructuring for FY1993-1996.

TABLE 1. Trends in Selected Elements of the Federal Budget in Current Dollars, FY1975-1996¹
[Dollar figures in millions]

	Average Level (A)	Annual Change (B)	Change Ratio (B/A)	Trend Consis- tency (r ²)
Education:				
U.S. Dept. of Education	\$18,531.1	\$1,100.1	5.94	0.926
Education function	\$34,314.2	\$1,590.8	4.64	0.841
Indian Education Office (U.S. Dept. of Education)	\$70.5	\$1.2	1.65	0.510
BIA education ²	\$325.3	\$13.6	4.19	0.642
Health:				
U.S. Dept. of Health & Human Services (excluding Social Security Admin.)	\$140,778.3	\$13,272.9	9.43	0.926
Health function	\$49,449.0	\$5,037.0	10.19	0.859
Indian Health Service	\$1,050.3	\$82.4	7.85	0.919
Housing:				
U.S. Dept. of Housing & Urban Devt. (outlays) ³	\$18,984.2	\$935.9	4.93	0.727
U.S. Dept. of Housing & Urban Devt. (B.A.) ³	\$24,259.5	-\$410.7	-1.69	0.091
Housing assistance subfunction (outlays) ³	\$14,823.6	-\$366.0	-2.47	0.448
Housing assistance subfunction (B.A.) ³	\$18,543.9	-\$336.9	-1.82	0.069
Indian Housing Devt. Pgm. in HUD (B.A.) ³	\$366.9	-\$29.1	-7.94	0.561
Economic Development and Training and Employment:				
Community & regional development function	\$8,281.5	\$99.1	1.20	0.064
Administration for Native Americans (HHS)	\$32.7	\$0.1	0.39	0.035
BIA economic development ²	\$59.4	-\$0.5	-0.79	0.045
U.S. Dept. of Labor	\$28,778.0	\$720.4	2.50	0.359
Training & employment subfunction	\$6,741.0	-\$34.8	-0.52	0.012
Indian & Native Am. Training & Emplt. (DOL) ⁴	\$88.5	-\$4.4	-4.95	0.285
Natural Resources:				
U.S. Dept. of the Interior	\$5,001.9	\$214.3	4.28	0.938
Natural resources function	\$14,827.9	\$627.7	4.23	0.914
BIA natural resources ²	\$111.3	\$5.7	5.15	0.796
Overall:				
BIA Total	\$1,187.0	\$48.0	4.05	0.827
BIA tribal services ²	\$302.1	\$19.6	6.50	0.904
Overall Indian budget	\$2,769.1	\$114.9	4.15	0.750
Federal non-defense budget ⁵	\$605,814.0	\$40,007.4	6.60	0.975
Population:				
U.S. population	240,157,364	2,356,014	0.98	0.998
Indian population (IHS ests.)	996,931	38,514	3.86	0.985

NOTES:

1 See Appendix table 1 for data used to calculate these figures.

2 Inconsistent time series from FY1993 on, because of BIA budget restructuring "BIA education" excludes BIA education construction

3 Covers only FY1978-1996. B.A. = budget authority

4 FY1975-1983 CETA Indian program. FY1984-1996 Indian & Native American Training & Employment Program

5 Excludes national defense outlays and net interest payments on national debt.

TABLE 2. Trends in Selected Elements of the Federal Budget in Constant 1993 Dollars, FY1975-1996¹
 [Constant dollars based on Implicit Price Deflator for GDP]
 [Dollar figures in millions]

	Average Level (A)	Annual Change (B)	Change Ratio (B/A)	Trend Consistency (r ²)
Education:				
U.S. Dept. of Education	\$23,702.9	\$410.1	1.73	0.557
Education function	\$46,260.3	\$16.8	0.03	0.000
Indian Education Office (U.S. Dept. of Education)	\$97.9	-\$2.9	-2.95	0.721
BIA education ²	\$436.4	-\$3.8	-0.86	0.070
Health:				
U.S. Dept. of Health & Human Services (excluding Social Security Admin.)	\$168,815.4	\$9,750.5	5.78	0.919
Health function	\$58,846.6	\$3,745.2	6.36	0.800
Indian Health Service	\$1,298.4	\$49.9	3.85	0.794
Housing:				
U.S. Dept. of Housing & Urban Devt. (outlays) ³	\$22,993.1	\$301.0	1.31	0.141
U.S. Dept. of Housing & Urban Devt. (B.A.) ³	\$32,586.4	-\$2,175.6	-6.68	0.486
Housing assistance subfunction (outlays) ³	\$17,270.1	\$829.6	4.80	0.529
Housing assistance subfunction (B.A.) ³	\$25,047.5	-\$1,754.6	-7.01	0.416
Indian Housing Devt. Pgm. in HUD (B.A.) ³	\$533.8	-\$66.3	-12.42	0.638
Economic Development and Training and Employment:				
Community & regional development function	\$11,688.1	-\$426.3	-3.65	0.334
Administration for Native Americans (HHS)	\$47.2	-\$2.3	-4.81	0.663
BIA economic development ²	\$87.1	-\$4.9	-5.60	0.648
U.S. Dept. of Labor	\$39,495.1	-\$897.0	-2.27	0.343
Training & employment subfunction	\$9,866.9	-\$537.0	-5.44	0.466
Indian & Native Am. Training & Emplt. (DOL) ⁴	\$140.0	-\$12.9	-9.23	0.460
Natural Resources:				
U.S. Dept. of the Interior	\$6,604.3	-\$6.1	-0.09	0.004
Natural resources function	\$19,656.4	-\$58.0	-0.29	0.034
BIA natural resources ²	\$142.7	\$2.1	1.50	0.220
Overall:				
BIA Total	\$1,587.8	-\$12.0	-0.75	0.119
BIA tribal services ²	\$383.8	\$8.5	2.21	0.570
Overall Indian budget	\$3,687.3	-\$18.6	-0.50	0.031
Federal non-defense budget ⁵	\$765,040.6	\$19,148.2	2.50	0.917

NOTES:

1. See Appendix table 2 for data used to calculate these figures

2. Inconsistent time series from FY1993 on, because of BIA budget restructuring "BIA education" excludes BIA education construction.

3. Covers only FY1978-1996. B.A. = budget authority.

4. FY1975-1983: CETA Indian program. FY1984-1996: Indian & Native American Training & Employment Program

5. Excludes national defense outlays and net interest payments on national debt

TABLE 3. Trends in Selected Elements of the Federal Budget in Current Dollars, FY1982-1996¹
 [Dollar figures in millions]

	Average Level (A)	Annual Change (B)	Change Ratio (B/A)	Trend Consistency (r ²)
Education:				
U.S. Dept. of Education	\$21,927.3	\$1,315.4	6.00	0.905
Education function	\$38,426.1	\$2,293.4	5.97	0.931
Indian Education Office (U.S. Dept. of Education)	\$73.7	\$1.2	1.69	0.515
BIA education ²	\$359.2	\$22.3	6.21	0.697
Health:				
U.S. Dept. of Health & Human Services (excluding Social Security Admin.)	\$181,198.0	\$17,412.2	9.61	0.945
Health function	\$63,523.9	\$7,421.4	11.68	0.924
Indian Health Service	\$1,292.9	\$109.3	8.45	0.941
Housing:				
U.S. Dept. of Housing & Urban Devt. (outlays) ³	\$21,080.9	\$793.1	3.76	0.517
U.S. Dept. of Housing & Urban Devt. (B.A.) ³	\$21,448.1	\$606.6	2.83	0.223
Housing assistance subfunction (outlays) ³	\$17,348.1	\$1,100.7	6.34	0.625
Housing assistance subfunction (B.A.) ³	\$16,026.3	\$618.5	3.86	0.236
Indian Housing Devt. Pgm. in HUD (B.A.) ³	\$272.1	-\$9.8	-3.59	0.226
Economic Development and Training and Employment:				
Community & regional development function	\$8,084.4	\$308.7	3.82	0.340
Administration for Native Americans (HHS)	\$32.0	\$0.9	2.71	0.623
BIA economic development ²	\$55.0	\$0.6	1.02	0.040
U.S. Dept. of Labor	\$30,880.5	\$879.1	2.85	0.226
Training & employment subfunction	\$5,991.4	\$233.0	3.89	0.697
Indian & Native Am. Training & Emplt. (DOL) ⁴	\$63.4	-\$0.6	-0.99	0.226
Natural Resources:				
U.S. Dept. of the Interior	\$5,680.3	\$236.1	4.16	0.952
Natural resources function	\$16,673.8	\$782.5	4.69	0.938
BIA natural resources ²	\$135.0	\$3.2	2.41	0.407
Overall:				
BIA Total	\$1,317.3	\$69.1	5.24	0.857
BIA tribal services ²	\$361.9	\$24.9	6.89	0.879
Overall Indian budget	\$3,051.3	\$170.0	5.57	0.860
Federal non-defense budget ⁵	\$736,542.1	\$45,742.5	6.21	0.964
Population:				
U.S. population	248,258,867	2,440,446	0.98	0.997
Indian population (IHS ests.)	1,126,896	40,302	3.58	0.975

NOTES:

1 See Appendix table 1 for data used to calculate these figures

2 Inconsistent time series from FY1993 on, because of BIA budget restructuring. "BIA education" excludes BIA education construction.

3 Covers only FY1978-1996 B.A. = budget authority

4 FY1975-1983: CETA Indian program FY1984-1996: Indian & Native American Training & Employment Program.

5 Excludes national defense outlays and net interest payments on national debt

TABLE 4. Trends in Selected Elements of the Federal Budget in Constant 1993 Dollars, FY1982-1996¹
 [Constant dollars based on Implicit Price Deflator for GDP]
 [Dollar figures in millions]

	Average Level (A)	Annual Change (B)	Change Ratio (B/A)	Trend Consistency (r ²)
Education:				
U.S. Dept. of Education	\$24,516.0	\$675.4	2.74	0.732
Education function	\$42,995.2	\$1,140.6	2.65	0.786
Indian Education Office (U.S. Dept. of Education)	\$84.8	-\$1.6	-1.92	0.506
BIA education ²	\$401.5	\$11.1	2.76	0.330
Health:				
U.S. Dept. of Health & Human Services (excluding Social Security Admin.)	\$198,156.2	\$12,915.0	6.52	0.937
Health function	\$68,549.7	\$6,002.2	8.76	0.914
Indian Health Service	\$1,423.2	\$75.9	5.33	0.9.5
Housing:				
U.S. Dept. of Housing & Urban Devt. (outlays) ³	\$23,906.0	\$99.2	0.41	0.010
U.S. Dept. of Housing & Urban Devt. (B.A.) ³	\$24,486.1	-\$182.0	-0.74	0.017
Housing assistance subfunction (outlays) ³	\$19,368.8	\$593.2	3.06	0.237
Housing assistance subfunction (B.A.) ³	\$18,184.5	\$47.0	0.26	0.001
Indian Housing Devt. Pgm. in HUD (B.A.) ³	\$324.6	-\$24.4	-7.53	0.505
Economic Development and Training and Employment:				
Community & regional development function	\$9,199.6	-\$4.5	-0.05	0.000
Administration for Native Americans (HHS)	\$36.5	-\$0.3	-0.74	0.128
BIA economic development ²	\$63.7	-\$1.7	-2.71	0.216
U.S. Dept. of Labor	\$35,256.2	-\$273.3	-0.78	0.020
Training & employment subfunction	\$6,802.3	\$21.9	0.32	0.016
Indian & Native Am. Training & Emplt. (DOL) ⁴	\$74.2	-\$3.4	-4.53	0.764
Natural Resources:				
U.S. Dept. of the Interior	\$6,427.0	\$50.2	0.78	0.451
Natural resources function	\$18,802.0	\$255.2	1.36	0.596
BIA natural resources ²	\$154.2	-\$1.1	-0.69	0.047
Overall:				
BIA Total	\$1,481.1	\$27.1	1.83	0.430
BIA tribal services ²	\$402.9	\$14.2	3.51	0.691
Overall Indian budget	\$3,424.4	\$73.3	2.14	0.502
Federal non-defense budget ⁵	\$822,618.4	\$24,271.5	2.95	0.909

NOTES:

1 See Appendix table 2 for data used to calculate these figures.

2 Inconsistent time series from FY1993 on, because of BIA budget restructuring "BIA education" excludes BIA education construction.

3. Covers only FY1978-1996 B.A. = budget authority.

4 FY1975-1983: CETA Indian program. FY1984-1996: Indian & Native American Training & Employment Program.

5. Excludes national defense outlays and net interest payments on national debt

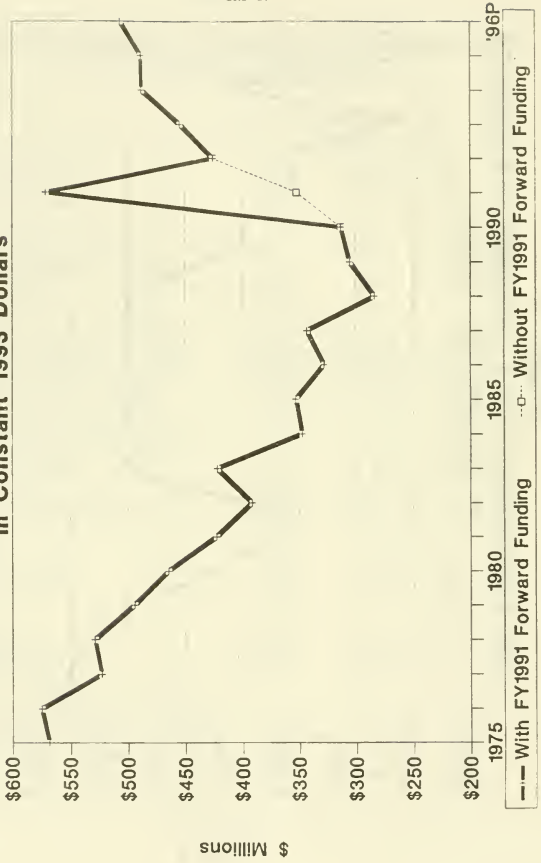
CRS-16

Graph 1
U.S. Education Dept. Budget, FY1975-96
In Constant 1993 Dollars

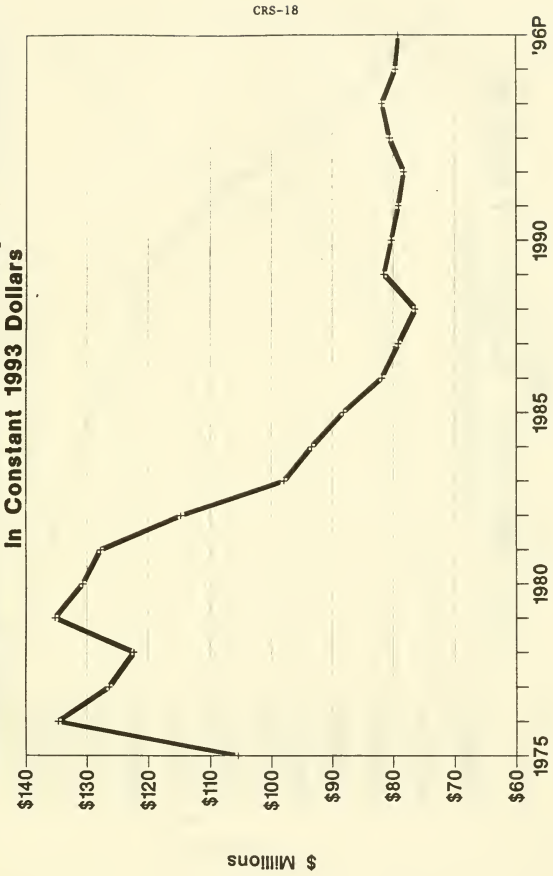


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Graph 2
BIA Education Budget, FY1975-96
 In Constant 1993 Dollars

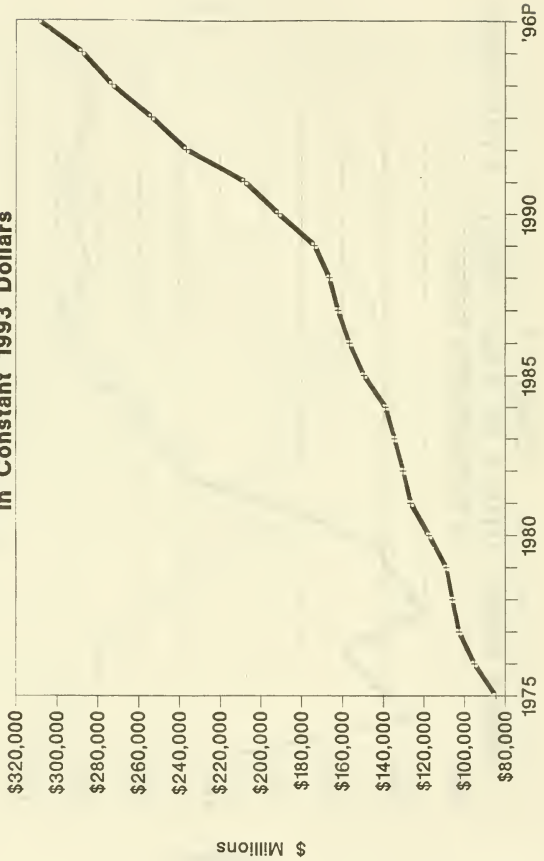


Graph 3
Indian Educ. Office in Educ. Dept., FY1975-96
 In Constant 1993 Dollars



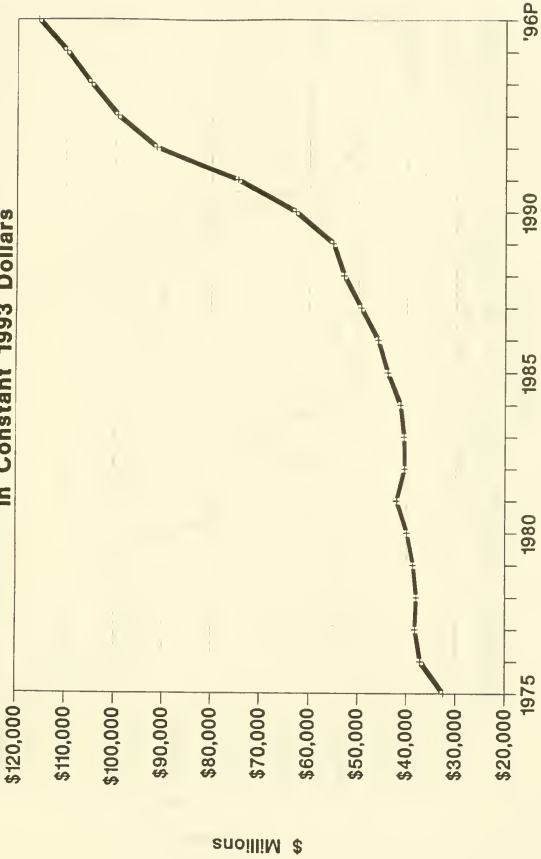
CRS-19

Graph 4
U.S. HHS Dept. Budget, FY1975-96
 In Constant 1993 Dollars



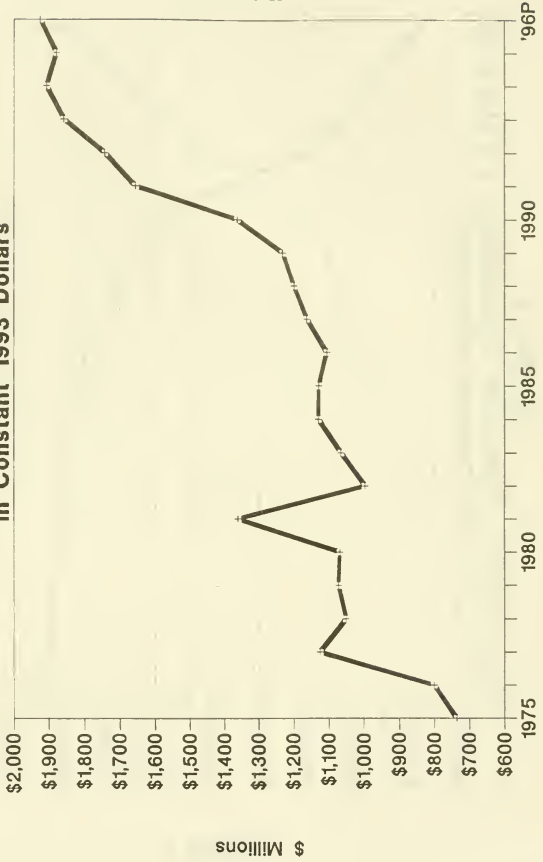
CRS-20

Graph 5
U.S. Health Function Spending, FY1975-96
In Constant 1993 Dollars



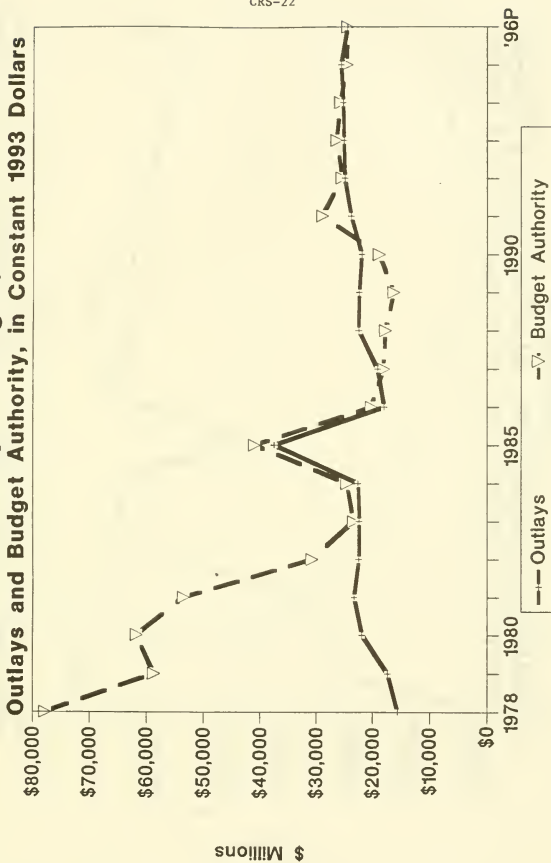
CRS-21

Graph 6
Indian Health Service Budget, FY1975-96
 in Constant 1993 Dollars



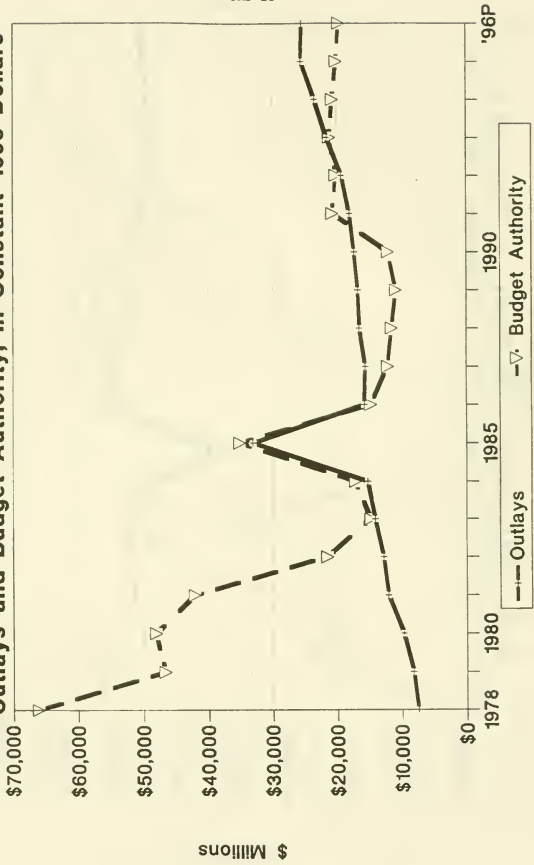
CRS-22

Graph 7
U.S. HUD Dept. Budget, FY1978-96:
Outlays and Budget Authority, in Constant 1993 Dollars

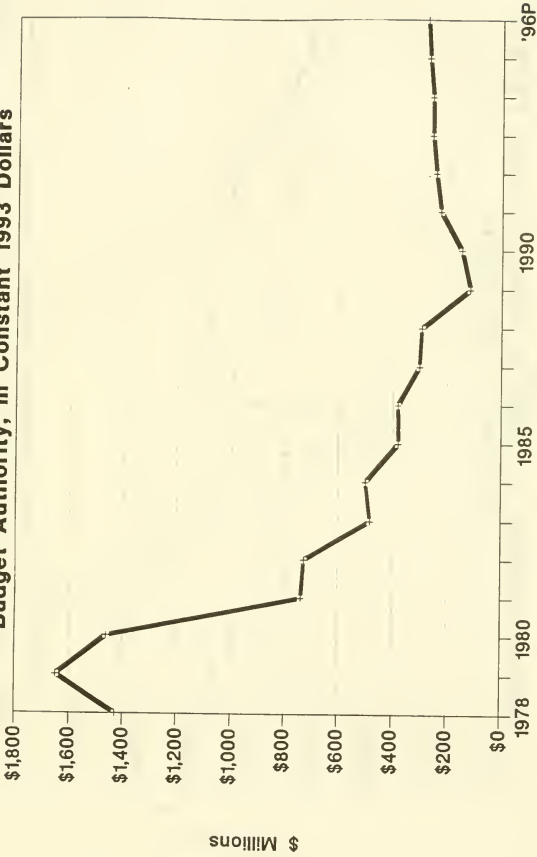


CRS-23

Graph 8
Housing Assistance Subfunction, FY78-96:
Outlays and Budget Authority, in Constant 1993 Dollars

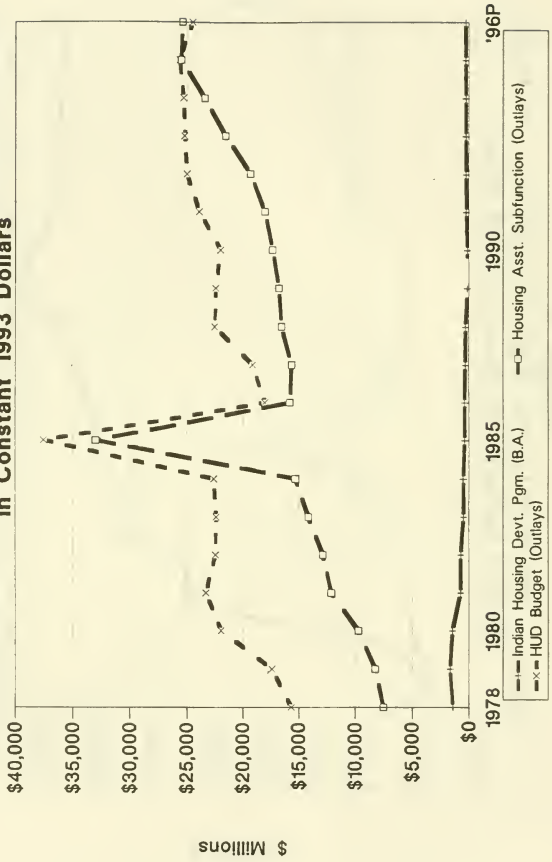


Graph 9
Indian Housing Devt. Pgm. In HUD, FY78-96:
Budget Authority, in Constant 1993 Dollars



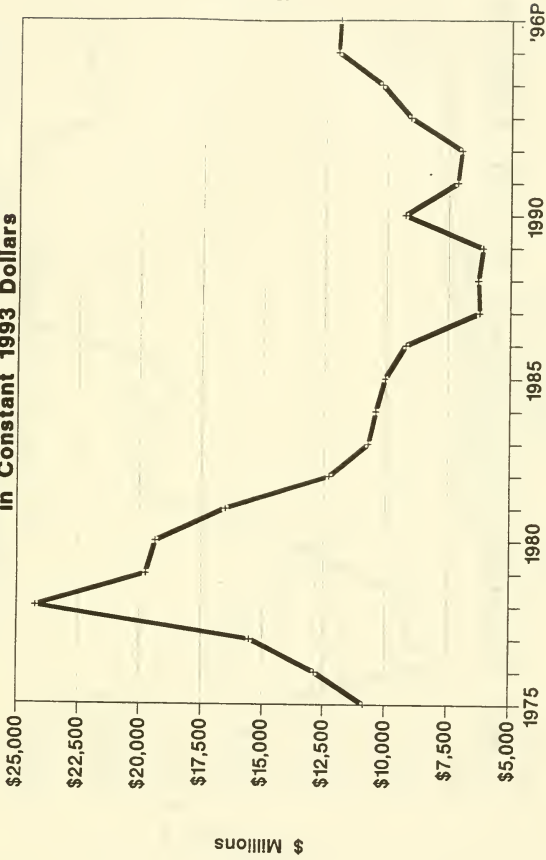
CRS-25

Graph 10
Indian Housing vs. HUD & Housing Asst., FY78-96
 In Constant 1993 Dollars



CRS-26

Graph 11
U.S. Economic Devt. Function, FY75-96
 In Constant 1993 Dollars

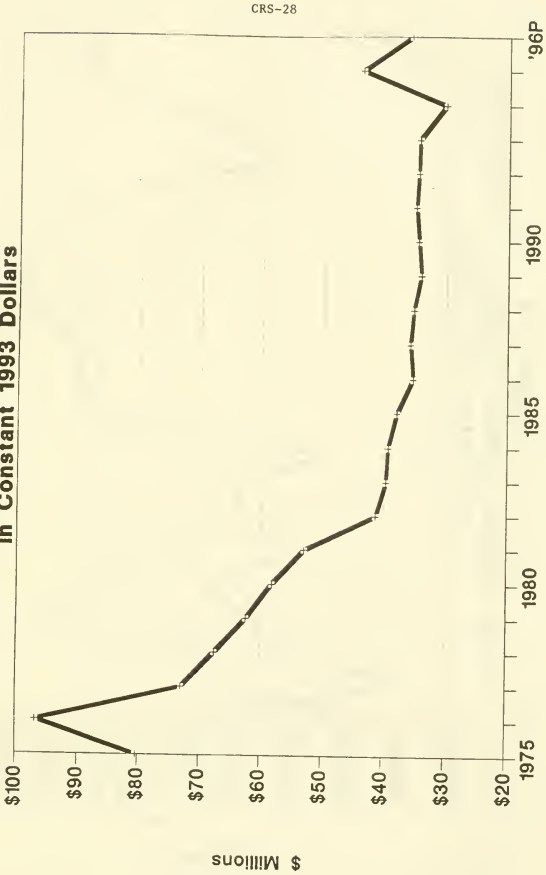


CRS-27

Graph 12
BIA Economic Development Budget, FY75-96
 In Constant 1993 Dollars



Graph 13
ANA Budget, FY1975-96
In Constant 1993 Dollars



Graph 14
U.S. Labor Dept. Budget, FY1975-96
 In Constant 1993 Dollars



CRS-30

Graph 15
Employment & Training Subfunction, FY75-96
 in Constant 1993 Dollars



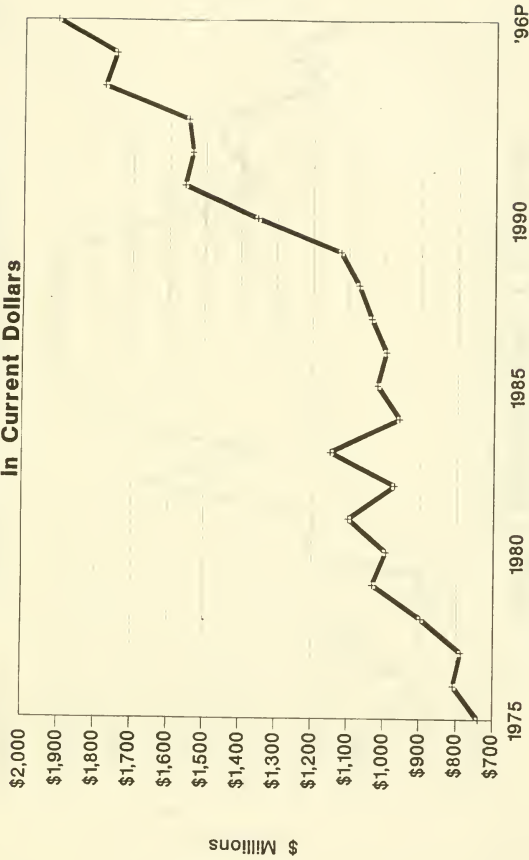
CRS-31

Graph 16
Indian Training & Employmt. Budget*, FY75-96
 in Constant 1993 Dollars



* FY75-83: CETA Indian programs. FY84-96: INAP.

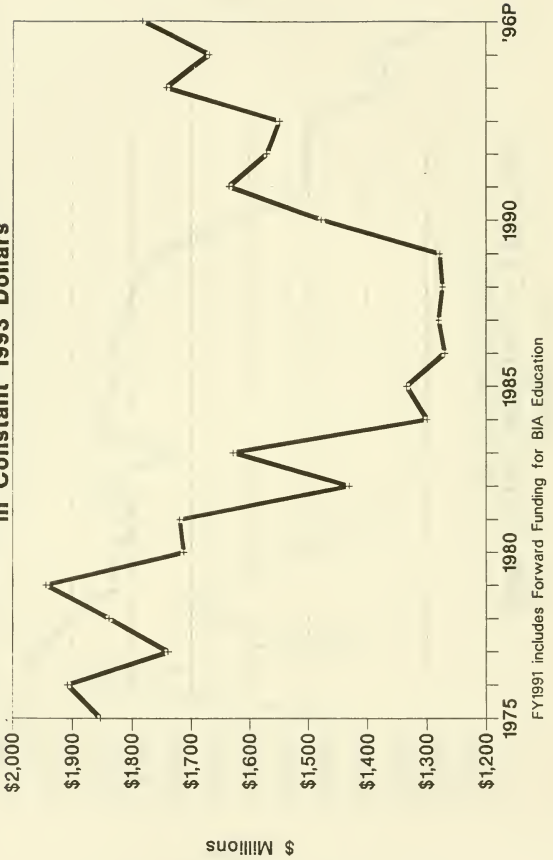
Graph 17
BIA Total Budget, FY1975-96
 In Current Dollars



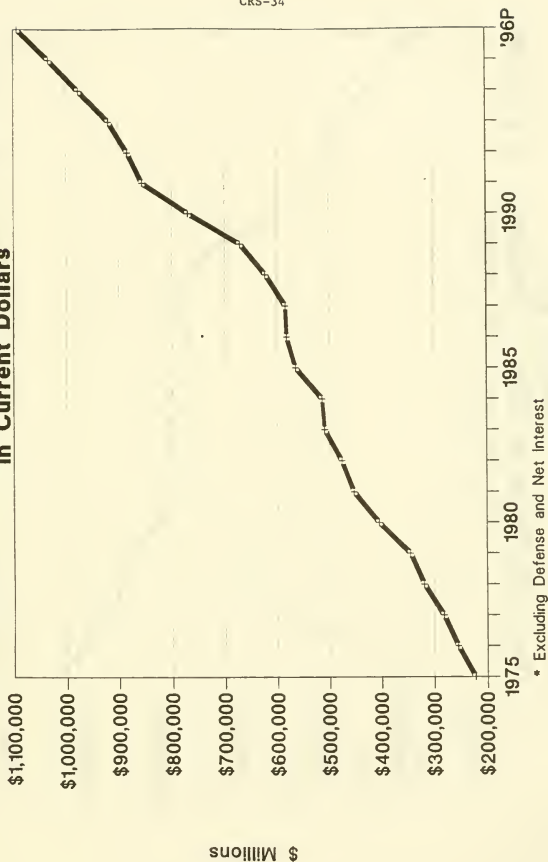
FY1991 includes Forward Funding for BIA Education (\$208.9 million).

CRS-33

Graph 18
BIA Total Budget, FY1975-96
 In Constant 1993 Dollars

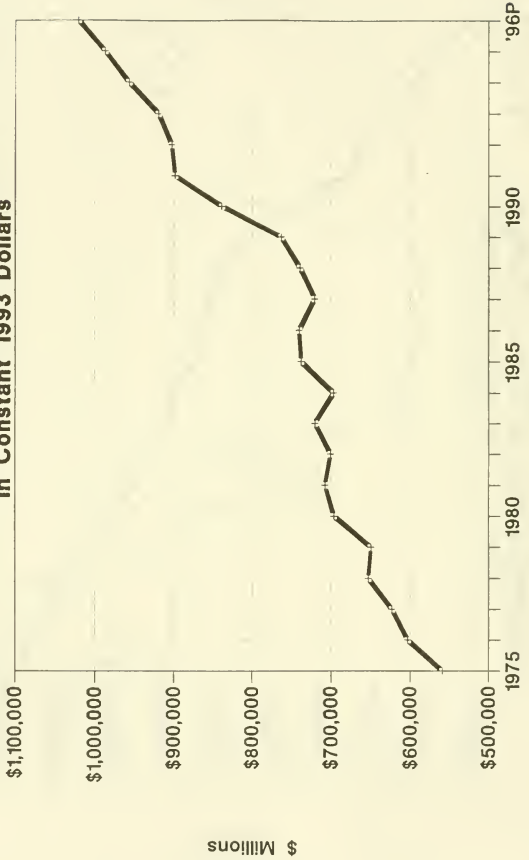


Graph 19
Overall Federal Govt. Budget*, FY75-96
In Current Dollars



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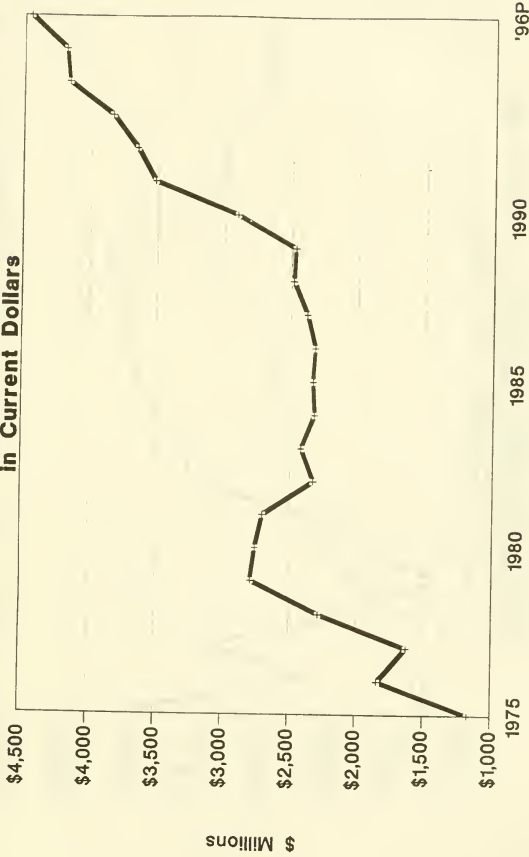
Graph 20
Overall Federal Govt. Budget*, FY75-96
 In Constant 1993 Dollars



* Excluding Defense and Net Interest

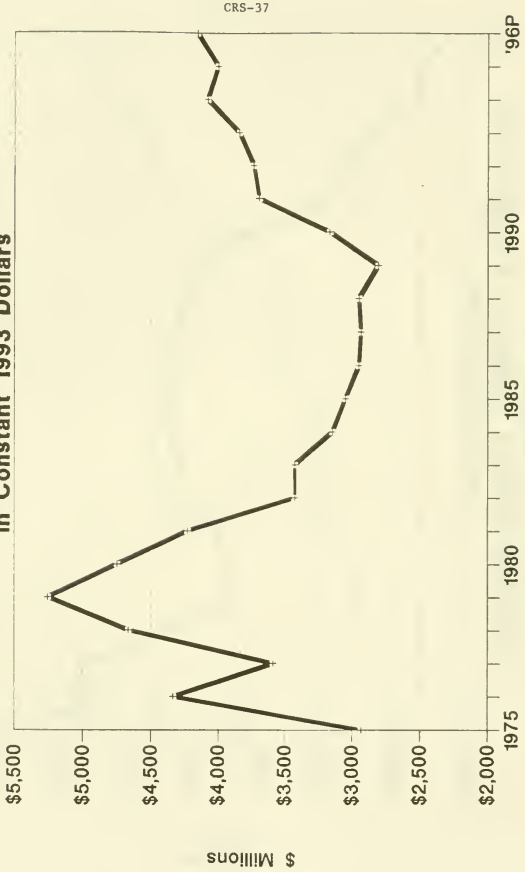
CRS-36

Graph 21
Overall Indian Budget, FY1975-96
 in Current Dollars



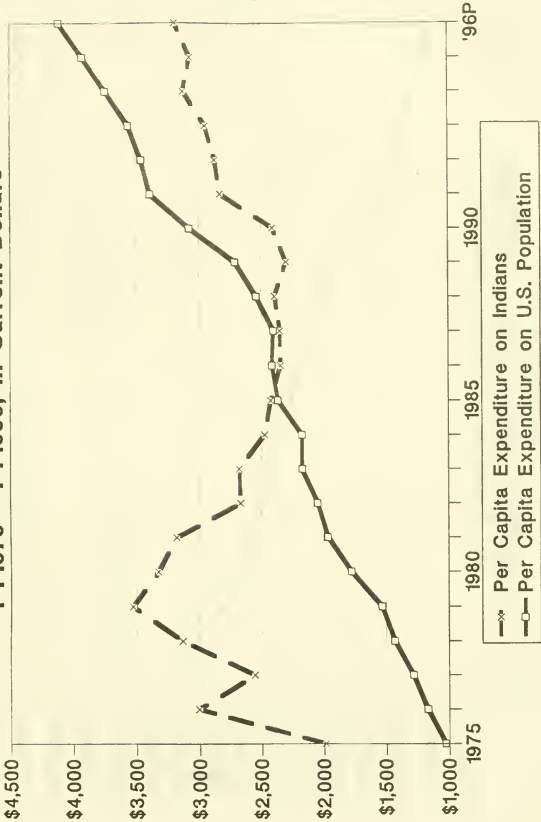
FY1991 includes Forward Funding for BIA Education (\$208.9 million).

Graph 22
Overall Indian Budget, FY1975-96
 In Constant 1993 Dollars

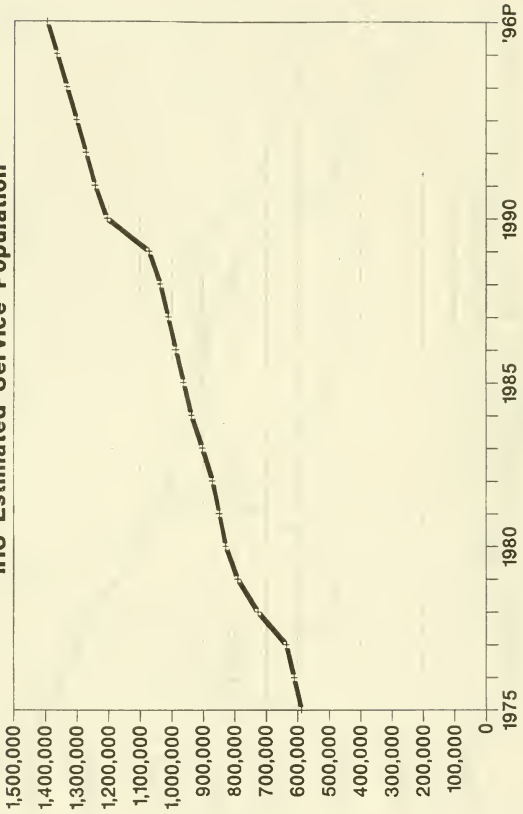


CRS-38

Graph 23
Per Capita Expenditure: US Pop. vs. Indian Pop.
FY1975 - FY1996, in Current Dollars

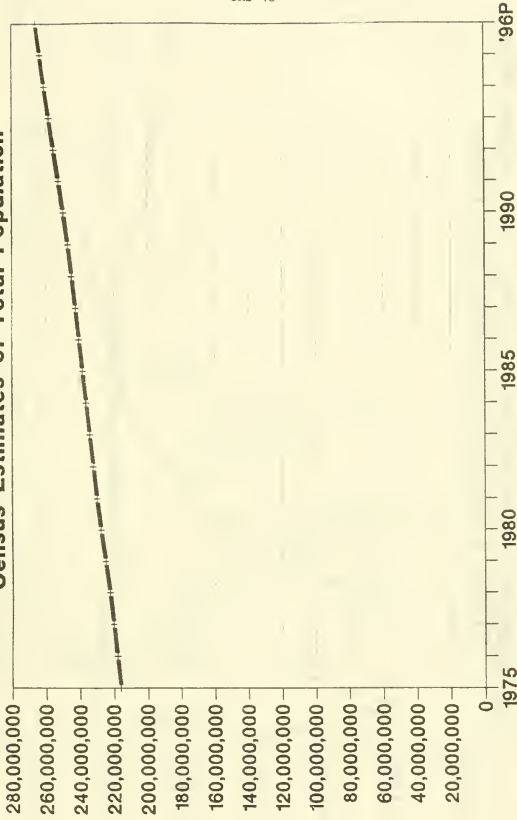


Graph 23A
Indian Population, 1975-96
IHS Estimated Service Population



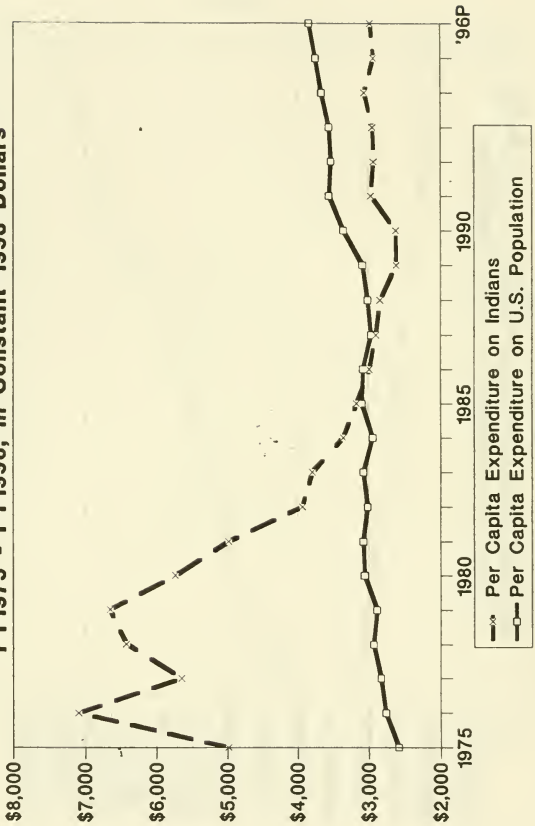
Source: Indian Health Service.

Graph 23B
United States Population, 1975-96
Census Estimates of Total Population



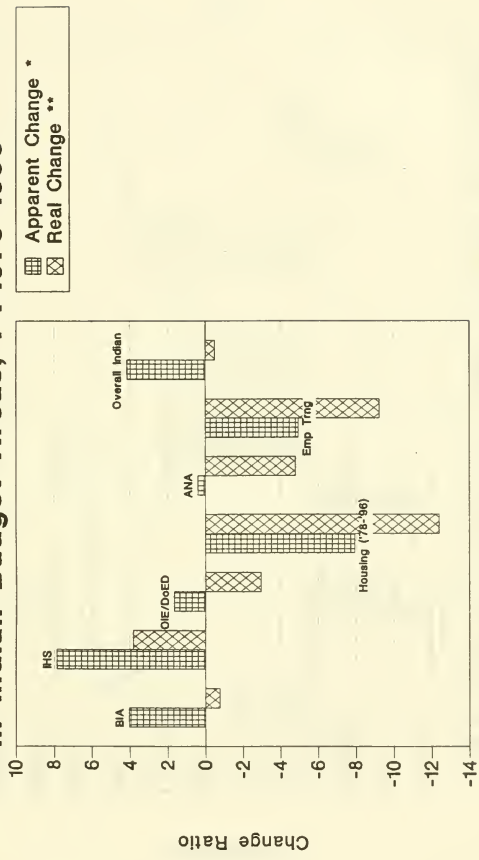
Source: Bureau of the Census.

Graph 23C
Per Capita Expenditure: US Pop. vs. Indian Pop.
FY1975 - FY1996, in Constant 1993 Dollars



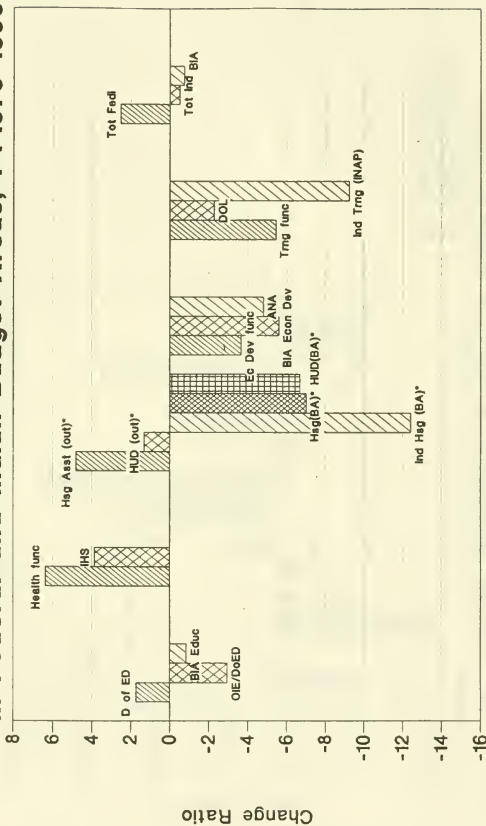
Note: FY75 & FY77 Indian per-capita expend. do not include Indian Housing Devt

Graph 24
Apparent Vs. Real Change Ratios
In Indian Budget Areas, FY1975-1996



Change Ratio = Ratio of Annual Change to Average Spending (see text).
 * Change Ratio based on Current Dollars
 ** Change Ratio based on Constant 1993 Dollars

Graph 25
Comparison of Real Change Ratios**
in Federal and Indian Budget Areas, FY1975-1996



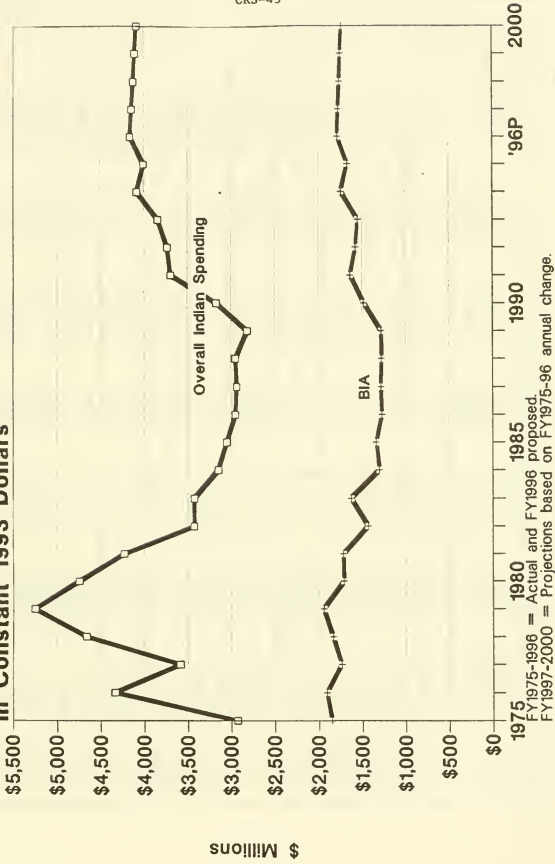
Change Ratio = Ratio of Annual Change to Average Spending (see text).

** Based on Constant 1993 Dollars.

* All housing ratios based on FY1978-1996.

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**Graph 26: BIA and Overall Indian Spending,
Actual and Projected, FY1975-2000**
In Constant 1993 Dollars



Appendix Table 1. Budget Data for Selected Elements if the Federal Budget, in Current Dollars, FY1975-1996
 [Dollar amounts in thousands, except per capita figure]

Fiscal Year	Bureau of Indian Affairs (Approps.)	Indian Health Service (Approps.)	Indian Education Office in Educ. Dept. (Approps.)	Indian Housing Devt. Pgm. in HUD (B.A. Use for New Construction)	Admin. for Native Americans (Approps.)	Indian & Native American Employment & Training in Labor Dept. (Approps.)	Overall Indian Budget
1975	\$738,236	\$293,103	\$42,034	N/A	\$32,000	\$62,304	\$1,167,677
1976	\$808,095	\$338,926	\$57,055	\$511,200	\$41,000	\$80,198	\$1,836,474
1977	\$787,359	\$509,065	\$57,212	N/A	\$33,000	\$236,525	\$1,623,161
1978	\$897,740	\$513,267	\$55,732	\$996,900	\$33,000	\$77,160	\$2,277,799
1979	\$1,031,195	\$569,153	\$71,735	\$874,300	\$33,100	\$208,684	\$2,788,187
1980	\$994,227	\$620,871	\$75,900	\$847,900	\$33,800	\$183,835	\$2,766,533
1981	\$1,098,447	\$669,762	\$81,680	\$471,500	\$33,800	\$146,817	\$2,702,006
1982	\$970,360	\$676,157	\$77,852	\$494,300	\$28,000	\$77,438	\$2,324,106
1983	\$1,149,902	\$752,918	\$69,185	\$340,600	\$28,000	\$77,366	\$2,417,968
1984	\$967,593	\$832,407	\$66,780	\$366,100	\$29,000	\$62,243	\$2,318,123
1985	\$1,019,411	\$862,203	\$67,404	\$290,200	\$29,000	\$62,243	\$2,330,461
1986	\$995,693	\$867,177	\$64,187	\$299,500	\$27,742	\$59,687	\$2,313,866
1987	\$1,038,253	\$940,750	\$64,036	\$245,000	\$28,989	\$61,484	\$2,376,512
1988	\$1,071,406	\$1,008,818	\$64,234	\$247,800	\$29,679	\$59,713	\$2,481,650
1989	\$1,122,966	\$1,081,993	\$71,553	\$102,699	\$29,975	\$58,996	\$2,468,182
1990	\$1,355,720	\$1,250,133	\$73,620	\$136,099	\$31,709	\$58,193	\$2,906,474
1991	\$1,558,541	\$1,577,549	\$75,364	\$216,083	\$33,375	\$59,624	\$3,320,636
1992	\$1,536,954	\$1,705,954	\$76,570	\$239,797	\$33,920	\$63,000	\$3,856,195
1993	\$1,548,709	\$1,858,930	\$80,583	\$257,610	\$34,502	\$81,871	\$3,841,905
1994	\$1,778,653	\$1,947,175	\$83,600	\$263,000	\$30,984	\$83,895	\$4,167,207
1995E	\$1,747,091	\$1,967,562	\$83,341	\$283,000	\$45,969	\$84,081	\$4,191,044
1996P	\$1,910,441	\$2,063,522	\$84,786	\$297,000	\$38,481	\$81,881	\$4,466,090

Appendix Table 1. Budget Data for Selected Elements of the Federal Budget, in Current Dollars, FY 1976-1996 — continued
 [Dollar amounts in thousands, except per capita figures]

Fiscal Year	BIA Education Program ¹ (Approps.)	BIA Tribal Services Program ^{1,2} (Approps.)	BIA Economic Devt. Program ^{1,3} (Approps.)	BIA Natural Resources Program ¹ (Approps.)	U.S. Dept. of Education (Outlays)	U.S. Dept. of HHS (except Sec. Admin.) (Outlays)	U.S. Dept. of HUD (Outlays)	U.S. Dept. of HUD (B.A.)
1975	\$226,495	\$98,703	\$44,223	\$31,337	\$7,557,000	\$33,751,000	\$7,512,000	N/A
1976	\$243,590	\$137,616	\$52,441	\$36,012	\$8,049,000	\$40,261,000	\$7,028,000	\$29,200,000
1977	\$236,700	\$159,118	\$73,968	\$45,536	\$8,887,000	\$46,493,000	\$5,808,000	\$33,818,000
1978	\$258,203	\$189,086	\$76,422	\$76,967	\$10,037,000	\$51,752,000	\$7,650,000	\$37,994,000
1979	\$262,242	\$205,198	\$83,162	\$75,338	\$12,423,000	\$57,820,000	\$9,220,000	\$31,142,000
1980	\$270,033	\$201,128	\$77,971	\$74,227	\$14,770,000	\$68,255,000	\$12,735,000	\$35,852,000
1981	\$270,183	\$227,249	\$73,365	\$85,711	\$17,053,000	\$80,821,000	\$14,880,000	\$34,220,000
1982	\$265,606	\$235,315	\$52,884	\$84,743	\$14,808,000	\$88,408,000	\$15,232,000	\$20,911,000
1983	\$298,143	\$277,865	\$59,821	\$119,241	\$14,558,000	\$95,008,000	\$16,814,000	\$16,561,000
1984	\$255,754	\$254,355	\$59,009	\$99,657	\$15,511,000	\$102,375,000	\$16,663,000	\$18,148,000
1985	\$299,644	\$241,807	\$71,002	\$124,101	\$16,682,000	\$114,271,000	\$28,720,000	\$31,396,000
1986	\$257,299	\$254,152	\$60,810	\$135,179	\$17,673,000	\$122,943,000	\$14,139,000	\$15,925,000
1987	\$277,783	\$275,367	\$38,025	\$144,428	\$16,800,000	\$131,414,000	\$16,484,000	\$14,657,000
1988	\$238,434	\$340,025	\$39,543	\$146,010	\$18,246,000	\$140,039,000	\$18,938,000	\$14,347,000
1989	\$268,503	\$315,973	\$45,299	\$181,696	\$21,608,000	\$152,699,000	\$19,680,000	\$14,315,000
1990	\$287,384	\$322,629	\$36,496	\$125,719	\$23,109,000	\$175,531,000	\$20,167,000	\$17,315,000
1991	\$544,545	\$364,060	\$42,408	\$139,694	\$25,339,000	\$198,110,000	\$22,751,000	\$27,534,000
1992	\$416,859	\$432,045	\$48,072	\$139,932	\$26,047,000	\$231,560,000	\$24,470,000	\$24,966,000
1993	\$454,694	\$454,705	\$68,440	\$137,662	\$30,290,000	\$253,835,000	\$26,181,000	\$26,468,000
1994	\$498,675	\$527,999	\$67,614	\$148,338	\$24,699,000	\$278,901,000	\$25,845,000	\$26,322,000
1995E	\$511,731	\$540,467	\$67,771	\$150,394	\$32,888,000	\$301,439,000	\$26,854,000	\$25,820,000
1996P	\$543,493	\$591,052	\$68,516	\$147,584	\$30,651,000	\$331,437,000	\$28,278,000	\$26,298,000

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Appendix Table 1. Budget Data for Selected Elements if the Federal Budget, in Current Dollars, FY1976-1996 — continued (Dollar amounts in thousands, except per capita figures)								
Fiscal Year	U.S. Dept. of Interior (Outlays)	U.S. Dept. of Labor (Outlays)	Education Function (Outlays)	Health Function (Outlays)	Housing Assistance Subfunction (Outlays)	Housing Assistance Subfunction (B.A.)	Economic Development Function (Outlays)	Training & Employment Subfunction (Outlays)
1975	\$2,221,000	\$17,610,000	\$16,022,000	\$12,930,000	\$2,058,000	N/A	\$4,322,000	\$4,063,000
1976	\$2,433,000	\$25,526,000	\$16,910,000	\$15,734,000	\$2,499,000	\$19,421,000	\$6,442,000	\$6,238,000
1977	\$3,213,000	\$22,269,000	\$21,104,000	\$17,302,000	\$2,968,000	\$28,829,000	\$7,021,000	\$6,877,000
1978	\$3,874,000	\$22,712,000	\$26,710,000	\$18,524,000	\$3,677,000	\$32,300,000	\$11,841,000	\$10,784,000
1979	\$4,168,000	\$22,459,000	\$30,223,000	\$20,494,000	\$4,367,000	\$24,780,000	\$10,480,000	\$10,833,000
1980	\$4,472,000	\$29,510,000	\$31,843,000	\$23,169,000	\$5,632,000	\$27,932,000	\$11,252,000	\$10,345,000
1981	\$4,456,000	\$29,821,000	\$33,709,000	\$26,866,000	\$7,752,000	\$26,927,000	\$10,568,000	\$9,241,000
1982	\$3,944,000	\$30,387,000	\$27,029,000	\$27,445,000	\$8,738,000	\$14,608,000	\$8,347,000	\$5,464,000
1983	\$4,547,000	\$37,604,000	\$26,606,000	\$28,641,000	\$9,993,000	\$10,498,000	\$7,660,000	\$5,295,000
1984	\$4,943,000	\$24,292,000	\$27,579,000	\$30,417,000	\$11,270,000	\$12,671,000	\$7,673,000	\$4,644,000
1985	\$4,820,000	\$23,699,000	\$29,342,000	\$33,542,000	\$25,263,000	\$26,879,000	\$7,680,000	\$4,972,000
1986	\$4,785,000	\$23,941,000	\$30,585,000	\$35,936,000	\$12,383,000	\$11,643,000	\$7,233,000	\$5,257,000
1987	\$5,046,000	\$23,253,000	\$29,724,000	\$39,967,000	\$12,656,000	\$9,864,000	\$6,051,000	\$5,084,000
1988	\$5,143,000	\$21,743,000	\$31,938,000	\$44,487,000	\$13,906,000	\$9,698,000	\$5,294,000	\$6,215,000
1989	\$5,207,000	\$22,549,000	\$36,674,000	\$48,390,000	\$14,715,000	\$9,668,000	\$6,362,000	\$5,292,000
1990	\$5,790,000	\$25,215,000	\$38,755,000	\$57,716,000	\$15,891,000	\$11,135,000	\$6,498,000	\$5,619,000
1991	\$6,088,000	\$33,954,000	\$43,354,000	\$71,183,000	\$17,176,000	\$19,721,000	\$6,811,000	\$5,934,000
1992	\$6,539,000	\$47,078,000	\$45,248,000	\$89,497,000	\$18,904,000	\$19,736,000	\$6,836,000	\$6,479,000
1993	\$6,784,000	\$44,651,000	\$50,012,000	\$99,415,000	\$21,542,000	\$21,170,000	\$9,052,000	\$6,700,000
1994	\$6,900,000	\$37,047,000	\$46,307,000	\$107,122,000	\$23,888,000	\$21,114,000	\$10,464,000	\$7,097,000
1995E	\$7,329,000	\$31,942,000	\$56,065,000	\$115,098,000	\$26,694,000	\$21,014,000	\$12,598,000	\$7,423,000
1996P	\$7,340,000	\$36,663,000	\$57,173,000	\$124,002,000	\$27,198,000	\$21,076,000	\$12,815,000	\$9,396,000

Appendix Table 1. Budget Data for Selected Elements of the Federal Budget, in Current Dollars, FY1975-1996 — continued
 [Dollar amounts in thousands, except per capita figures]

Fiscal Year	Natural Resources Function (Outlays)	Total Federal Non-Defense Budget ⁴ (Outlays)	U.S. Total Population	Indian Population (IHS data)	Overall U.S. Per Capita Expenditure	Indian Per Capita Expenditure	Implicit Price Deflator for Gross Domestic Product (1987=100)	Implicit Price Deflator for Gross Domestic Product (1993=100)
1975	\$7,346,000	\$222,579,000	215,973,000	587,468	\$1,031	\$1,988	49.2	39.8
1976	\$8,184,000	\$255,446,000	218,035,000	611,296	\$1,172	\$3,004	62.3	42.3
1977	\$10,032,000	\$282,076,000	220,239,000	635,313	\$1,281	\$2,555	55.9	45.3
1978	\$10,983,000	\$318,793,000	222,585,000	726,551	\$1,432	\$3,135	60.3	48.8
1979	\$12,135,000	\$344,507,000	225,055,000	790,486	\$1,531	\$3,527	65.5	53.0
1980	\$13,858,000	\$404,414,000	227,725,000	828,609	\$1,776	\$3,327	71.7	58.1
1981	\$13,568,000	\$451,962,000	229,966,000	849,315	\$1,965	\$3,181	78.9	63.9
1982	\$12,998,000	\$475,402,000	232,188,000	871,167	\$2,047	\$2,668	83.8	67.9
1983	\$12,672,000	\$508,649,000	234,307,000	902,701	\$2,171	\$2,679	87.2	70.6
1984	\$12,583,000	\$513,310,000	236,348,000	936,942	\$2,172	\$2,474	91.0	73.7
1985	\$13,357,000	\$564,139,000	238,466,000	961,881	\$2,368	\$2,423	94.4	78.4
1986	\$13,639,000	\$580,914,000	240,651,000	986,551	\$2,414	\$2,346	96.9	78.5
1987	\$13,363,000	\$583,260,000	242,804,000	1,011,837	\$2,402	\$2,349	100.0	81.0
1988	\$14,606,000	\$621,941,000	245,021,000	1,038,121	\$2,538	\$2,391	103.9	84.1
1989	\$16,182,000	\$670,347,000	247,342,000	1,073,886	\$2,710	\$2,298	108.6	87.9
1990	\$17,080,000	\$769,153,000	249,908,000	1,206,724	\$3,078	\$2,408	113.3	91.7
1991	\$18,559,000	\$855,960,000	252,648,000	1,243,717	\$3,388	\$2,831	117.7	96.3
1992	\$20,025,000	\$883,085,000	255,458,000	1,272,905	\$3,457	\$2,872	120.9	97.9
1993	\$20,239,000	\$918,778,000	258,245,000	1,302,723	\$3,558	\$2,949	123.5	100.0
1994	\$21,064,000	\$976,394,000	260,967,000	1,333,291	\$3,741	\$3,128	126.1	102.1
1995E	\$21,891,000	\$1,033,096,000	263,434,000	1,364,526	\$3,922	\$3,071	129.3	104.7
1996P	\$21,839,000	\$1,093,703,000	266,096,000	1,396,472	\$4,110	\$3,191	132.4	107.2

NOTES to Appendix Table 1:

- 1 Inconsistent time series because of FY1993,1994 BIA budget restructuring "BIA Education Program" excludes BIA education construction.
- 2 Includes Tribal Services (with Housing Improvement Program) and Navajo-Hopi Settlement programs
- 3 Includes Road Maintenance program.
- 4 Excludes national defense outlays and net interest payments on national debt.

N/A Not Available

E Estimate

P Proposed amounts and projections.

B A. Budget authority

Appendix Table 2. Budget Data for Selected Elements of the Federal Budget, in Constant 1983 Dollars, FY1975-1996
 [Dollar amounts in thousands, except per capita figures]

Fiscal Year	Bureau of Indian Affairs (Approps.)	Indian Health Service (Approps.)	Indian Education Offices in Educ. Dept (Approps.)	Indian Housing Dept. Pgm. in HUD (B/A Use for New Construction)	Admin. for Native Americans (Approps.)	Indian & Native American Employment & Training in Labor Dept. (Approps.)	Overall Indian Budget
1975	\$1,853,092	\$735,736	\$105,512	NA	\$80,325	\$166,383	\$2,831,059
1976	\$1,908,217	\$800,332	\$134,728	\$1,207,130	\$90,616	\$189,378	\$4,386,607
1977	\$1,739,514	\$1,124,656	\$126,399	NA	\$72,907	\$522,655	\$3,586,031
1978	\$1,838,655	\$1,051,216	\$122,337	\$1,427,316	\$67,587	\$158,031	\$4,665,144
1979	\$1,944,314	\$1,073,136	\$135,256	\$1,648,489	\$62,410	\$393,473	\$5,267,078
1980	\$1,712,511	\$1,069,422	\$130,734	\$1,460,469	\$58,219	\$316,647	\$4,748,003
1981	\$1,719,890	\$1,361,415	\$127,651	\$738,026	\$52,006	\$229,809	\$4,228,376
1982	\$1,430,065	\$998,484	\$114,734	\$728,473	\$41,265	\$114,121	\$3,425,142
1983	\$1,628,588	\$1,060,343	\$97,986	\$482,386	\$30,656	\$109,657	\$3,424,516
1984	\$1,295,691	\$1,126,695	\$93,344	\$409,564	\$39,357	\$84,473	\$3,146,024
1985	\$1,333,657	\$1,127,988	\$88,182	\$376,658	\$37,940	\$81,430	\$3,048,855
1986	\$1,269,020	\$1,105,226	\$81,807	\$381,716	\$35,357	\$75,916	\$2,949,045
1987	\$1,278,772	\$1,161,826	\$79,084	\$302,575	\$35,801	\$75,933	\$2,934,992
1988	\$1,273,519	\$1,199,124	\$76,351	\$294,546	\$35,278	\$70,977	\$2,949,796
1989	\$1,278,215	\$1,231,577	\$81,445	\$116,897	\$34,119	\$67,152	\$2,809,405
1990	\$1,477,771	\$1,362,678	\$80,249	\$146,352	\$34,564	\$63,432	\$3,167,044
1991	\$1,635,343	\$1,655,287	\$76,078	\$226,731	\$35,020	\$62,662	\$3,694,020
1992	\$1,670,007	\$1,742,641	\$76,217	\$244,954	\$34,649	\$64,355	\$3,734,823
1993	\$1,648,709	\$1,858,650	\$80,583	\$257,610	\$34,602	\$61,871	\$3,841,905
1994	\$1,741,980	\$1,907,027	\$81,778	\$257,577	\$30,345	\$62,678	\$4,081,285
1995E	\$1,668,722	\$1,879,303	\$79,603	\$270,305	\$43,907	\$61,207	\$4,003,047
1996P	\$1,782,020	\$1,924,811	\$79,086	\$277,035	\$38,876	\$57,721	\$4,166,548

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Appendix Table 2. Budget Data for Selected Elements if the Federal Budget, in Constant 1993 Dollars, FY1975-1996 --- continued [Dollar amounts in thousands, except per capita figures]								
Fiscal Year	BIA Education Program ¹ (Approps.)	BIA Tribal Services Program ^{1,2} (Approps.)	BIA Economic Devt. Program ^{1,3} (Approps.)	BIA Natural Resources Program ¹ (Approps.)	U.S. Dept. of Education (Outlays)	U.S. Dept. of HHS (except Soc. Sec. Admin.) (Outlays)	U.S. Dept. of HUD (Outlays)	U.S. Dept. of HUD (B.A.)
1975	\$568,539	\$247,761	\$111,007	\$78,661	\$18,969,299	\$84,720,498	\$18,856,341	NA
1976	\$575,208	\$324,963	\$123,833	\$85,038	\$19,006,721	\$95,071,386	\$16,591,033	\$68,952,199
1977	\$522,942	\$351,540	\$163,413	\$100,603	\$19,634,070	\$102,717,093	\$12,831,628	\$74,714,166
1978	\$528,824	\$387,266	\$156,519	\$157,636	\$20,556,708	\$105,992,902	\$15,667,910	\$77,815,240
1979	\$484,456	\$386,900	\$156,802	\$142,050	\$23,423,519	\$109,019,389	\$17,384,275	\$58,718,122
1980	\$465,120	\$346,434	\$134,302	\$127,870	\$25,440,656	\$117,566,144	\$21,935,460	\$61,763,446
1981	\$422,910	\$355,707	\$114,836	\$134,161	\$26,692,592	\$126,606,888	\$23,291,255	\$53,563,625
1982	\$391,436	\$346,795	\$77,938	\$124,890	\$21,823,246	\$130,291,026	\$22,448,115	\$30,817,524
1983	\$422,255	\$383,536	\$84,724	\$168,879	\$20,818,268	\$134,558,349	\$22,397,122	\$23,455,086
1984	\$347,095	\$345,196	\$80,084	\$135,249	\$21,050,643	\$138,937,500	\$22,614,071	\$24,628,429
1985	\$352,765	\$316,347	\$92,889	\$162,357	\$21,824,439	\$149,496,488	\$37,573,305	\$41,076,833
1986	\$327,930	\$323,919	\$77,503	\$172,287	\$22,524,412	\$156,692,059	\$18,020,294	\$20,300,392
1987	\$343,062	\$340,078	\$46,981	\$178,369	\$20,748,000	\$162,356,290	\$19,122,740	\$18,101,396
1988	\$283,413	\$404,168	\$47,003	\$173,554	\$21,687,979	\$166,456,367	\$22,510,520	\$17,769,023
1989	\$305,623	\$359,656	\$51,562	\$206,815	\$24,595,281	\$173,809,461	\$22,400,737	\$16,330,456
1990	\$313,256	\$351,674	\$39,782	\$137,037	\$25,188,422	\$191,333,438	\$21,982,564	\$18,873,808
1991	\$571,379	\$382,000	\$44,498	\$146,578	\$26,587,651	\$207,872,430	\$23,872,120	\$28,965,743
1992	\$425,824	\$441,336	\$49,106	\$142,941	\$26,607,151	\$236,538,785	\$24,996,237	\$25,502,903
1993	\$454,694	\$454,705	\$68,440	\$137,662	\$30,290,000	\$253,835,000	\$25,181,000	\$26,488,000
1994	\$488,393	\$517,112	\$66,220	\$145,279	\$24,189,742	\$273,150,464	\$25,312,113	\$25,779,278
1995E	\$488,778	\$516,223	\$64,731	\$143,648	\$31,412,748	\$287,917,374	\$25,649,412	\$24,661,794
1996P	\$506,959	\$651,321	\$83,910	\$137,663	\$28,690,623	\$309,157,625	\$24,509,713	\$24,630,234

Appendix Table 2. Budget Data for Selected Elements of the Federal Budget, in Constant 1993 Dollars, FY1975-1996 — continued
(Dollar amounts in thousands, except per capita figures)

Fiscal Year	U.S. Dept. of Interior (Outlays)	U.S. Dept. of Labor (Outlays)	Education Function (Outlays)	Health Function (Outlays)	Housing Assistance Subfunction (Outlays)	Housing Assistance Subfunction (B.A.)	Economic Development Function (Outlays)	Training & Employment Function (Outlays)
1976	\$5,575,071	\$44,203,963	\$40,217,825	\$32,456,402	\$5,165,915	NA	\$10,848,923	\$10,198,791
1976	\$6,745,229	\$60,276,501	\$44,653,633	\$37,163,901	\$6,901,080	\$45,860,296	\$12,890,612	\$14,848,337
1977	\$7,098,488	\$49,198,953	\$46,626,116	\$38,225,349	\$6,557,209	\$63,250,116	\$16,511,512	\$15,193,372
1978	\$7,934,312	\$46,516,285	\$54,704,561	\$37,938,872	\$7,530,837	\$66,153,400	\$24,251,468	\$22,086,633
1979	\$7,858,748	\$42,346,359	\$66,985,351	\$38,641,359	\$8,233,962	\$46,722,595	\$19,790,000	\$20,425,580
1980	\$7,702,817	\$50,829,637	\$64,848,124	\$39,907,552	\$9,700,865	\$48,111,604	\$19,381,060	\$17,818,794
1981	\$6,974,854	\$46,677,991	\$52,763,771	\$42,052,611	\$12,133,992	\$42,148,093	\$16,541,800	\$14,464,863
1982	\$5,812,468	\$44,782,761	\$39,833,908	\$40,446,987	\$12,877,601	\$21,528,496	\$12,301,366	\$8,052,554
1983	\$6,439,845	\$53,257,969	\$37,661,663	\$40,563,802	\$14,160,011	\$14,868,154	\$10,707,110	\$7,499,226
1984	\$6,708,357	\$32,967,714	\$37,428,643	\$41,280,214	\$15,295,000	\$17,196,357	\$10,413,357	\$8,302,671
1985	\$6,305,826	\$31,004,518	\$38,387,044	\$43,861,748	\$33,050,641	\$36,164,793	\$10,047,458	\$6,504,882
1986	\$6,098,529	\$30,613,039	\$38,980,882	\$45,800,784	\$10,782,256	\$14,839,118	\$9,218,529	\$6,700,098
1987	\$6,231,810	\$28,717,456	\$38,709,140	\$49,369,245	\$15,630,160	\$12,182,040	\$8,237,985	\$6,278,740
1988	\$6,113,191	\$25,844,663	\$37,962,878	\$52,879,158	\$16,929,269	\$11,527,469	\$6,292,676	\$6,198,773
1989	\$6,926,862	\$25,666,373	\$41,744,138	\$65,079,862	\$16,749,332	\$10,890,766	\$6,103,290	\$6,023,613
1990	\$6,311,253	\$27,486,018	\$42,243,976	\$62,911,968	\$17,321,611	\$12,137,446	\$9,263,045	\$6,124,859
1991	\$6,388,003	\$35,627,179	\$45,490,391	\$74,690,743	\$18,021,347	\$20,692,808	\$7,146,631	\$6,226,416
1992	\$6,679,624	\$46,090,430	\$46,221,075	\$91,421,667	\$19,310,538	\$20,160,430	\$6,985,054	\$6,618,333
1993	\$6,764,000	\$44,651,000	\$50,012,000	\$99,415,000	\$21,642,000	\$21,170,000	\$9,052,000	\$6,700,000
1994	\$6,757,732	\$36,283,144	\$45,352,216	\$104,913,299	\$23,395,464	\$20,678,660	\$10,238,454	\$6,950,670
1995E	\$7,000,244	\$30,609,180	\$53,650,097	\$109,836,068	\$25,496,589	\$20,071,377	\$12,032,892	\$7,090,027
1996P	\$6,848,601	\$33,442,942	\$53,329,800	\$115,666,618	\$25,369,736	\$19,669,260	\$11,963,569	\$8,764,396

CJRS-52

Appendix Table 2. Budget Data for Selected Elements of the Federal Budget, in Constant 1993 Dollars, FY 1976-1996 — continued							
[Dollar amounts in thousands, except per capita figures]							
Fiscal Year	Natural Resources Function (Outlays)	Total Federal Non-Defense Budget ^a (Outlays)	Overall U.S. Per Capita Expenditure	Indian Per Capita Expenditure			
1975	\$18,439,654	\$558,709,482	\$2,587	\$4,989			
1976	\$19,325,507	\$603,204,226	\$2,767	\$7,094			
1977	\$22,163,721	\$623,191,163	\$2,830	\$5,645			
1978	\$22,494,204	\$652,917,670	\$2,933	\$6,421			
1979	\$22,880,496	\$649,566,634	\$2,886	\$6,650			
1980	\$23,869,777	\$696,584,784	\$3,059	\$5,730			
1981	\$21,237,617	\$707,443,688	\$3,076	\$4,980			
1982	\$19,155,764	\$700,622,279	\$3,017	\$3,932			
1983	\$17,947,156	\$720,391,646	\$3,075	\$3,794			
1984	\$17,090,500	\$696,835,000	\$2,947	\$3,358			
1985	\$17,474,465	\$738,042,018	\$3,095	\$3,170			
1986	\$17,383,039	\$740,380,588	\$3,077	\$2,969			
1987	\$16,503,305	\$720,326,100	\$2,967	\$2,901			
1988	\$17,361,319	\$739,265,770	\$3,017	\$2,841			
1989	\$18,419,143	\$763,021,700	\$3,085	\$2,816			
1990	\$18,817,652	\$838,397,136	\$3,355	\$2,624			
1991	\$19,473,547	\$898,139,847	\$3,555	\$2,970			
1992	\$20,455,645	\$902,076,075	\$3,531	\$2,934			
1993	\$20,239,000	\$918,778,000	\$3,558	\$2,949			
1994	\$20,629,691	\$956,262,165	\$3,664	\$3,061			
1995E	\$20,909,037	\$986,754,493	\$3,746	\$2,934			
1996P	\$20,370,971	\$1,020,183,690	\$3,834	\$2,976			

NOTES to Appendix Table 2.

1. Inconsistent time series from FY1993 on, because of BIA budget restructuring. "BIA Education Program" excludes BIA education construction.
2. Includes Tribal Services (with Housing Improvement Program) and Navajo-Hopi Settlement programs.
3. Includes Road Maintenance program.
4. Excludes national defense outlays and net interest payments on national debt.

N/A

Not Available

E

Estimate

P

Proposed amounts and projections.

B.A.

Budget authority

STATEMENT BY

SECRETARY HENRY G. CISNEROS

Chairman McCain and Members of the Committee, thank you for holding this hearing today and for your strong support for HUD's goals, priorities, and legislative initiatives.

We especially want to thank you, Mr. Chairman for your leadership as a strong advocate for Native Americans, Alaska Natives and Native Hawaiians. We especially appreciate your efforts in recent years to preserve funding for HUD's Native American programs in the face of proposed cutbacks. People that care about the quality of life of Native Americans are well served by your chairmanship.

We are very pleased to work closely with you and your staff and with the Members of the Committee on these issues. I am delighted to be here today to discuss Indian housing and community development needs and the Department's ongoing study of those needs, as well as the proposed budget for Native American programs.

Before I discuss the details of our proposed budget, I would like to share with you the innovative approach the Department has taken in Native American programs over the last several years.

INDIAN HOMEOWNERSHIP: THE FIRST GENERATION

The Department's focus on Native American programs in Fiscal year 1994 was called "Consultation '94". In a series of twenty-seven meetings held throughout the country, Consultation '94 brought together Indian and Alaska Native tribal representatives, Indian housing authorities, and national Indian organizations to discuss with HUD changes which would improve the delivery of our programs. As a result of that consultation process, the Department streamlined its procedures and reduced regulations for major programs by close to 50%.

Consultation '94 also reinforced something the Department already knew: there is a strong need and desire for homeownership in Indian Country. While the HOME program, and the Mutual Help Homeownership Opportunity program to a more limited extent, have brought homeownership to Indian Country, it has been limited to low- and moderate-income families. In fiscal 1994, the Department implemented the Indian Loan Guarantee Program as authorized in the Housing and Community Development Act of 1992, bringing the opportunity for true homeownership to a newly emerging middle class of Native Americans who desire to continue living on reservations.

Because homeownership is a relatively new concept in Indian Country, the Office of Native American Programs has developed a follow-up initiative to Consultation '94 called "Indian Homeownership: THE FIRST GENERATION" for fiscal 1995. We have focused on bringing this Department together with the Departments of Agriculture, Interior and Veterans' Affairs, as well as other federal agencies who are involved with housing and related

issues, to develop a comprehensive presentation to Tribal governments, Indian housing officials and Native American housing associations. The objectives are to educate, to consult, to overcome barriers and to develop a unified plan for making homeownership a reality in Indian Country.

INDIAN HOMEOWNERSHIP: *THE NEXT GENERATION*

In fiscal 1996, the Department will help bring Indian Country even closer to the reality of homeownership and choice in housing. As I will elaborate later, the Department's Reinvention Blueprint allows Tribal governments the greatest opportunity ever to plan for the future while meeting current housing needs in the most appropriate way for their reservation. Many tribes have needed the flexibility in funding to create the infrastructure of their environment before meeting even basic housing needs. The Community Opportunity Fund together with the Affordable Housing Fund will provide that flexibility. There are also tribes who have had the resources to help individual tribe members move forward into homeownership. The Blueprint provides them the additional opportunities available through the Indian Loan Guarantee Program.

No matter what a tribe's current level of need, the Department's Reinvention Blueprint for Native American Programs will provide the opportunity for moving into the "NEXT GENERATION." Through the creation of the several funds which will be administered as block grants, tribes are afforded greater flexibility in creating physical as well as administrative infrastructure to meet the housing needs of their members.

In addition, the next logical step in expanding the concept of homeownership in Indian Country is to create a financial infrastructure not only for lending, but for economic development and commercial financing opportunities by and for Indians. The Native American Financial Services Organization (NAFSO), which will be introduced in 1995, will facilitate secondary market activity for residential mortgages located in Indian country and increase the liquidity of such mortgage investments. In addition, under a cooperative agreement with the CDFI Fund, the NAFSO will provide technical assistance and other services to Native American Financial Institutions (NAFIs). NAFIs will be created and strengthened pursuant to provisions of the Community Development Financial Institution Fund, and subject to its provisions. The NAFSO will neither conflict with nor duplicate the functions of CDFI or any other government-sponsored enterprise. It is intended to supplement the efforts of existing organizations and enhance the availability of financial services to Native Americans.

CULTURALLY RELEVANT HOUSING

Native American residents have long called for a home which was more relevant to their life styles and reflected their traditions and cultures. For many years, there has been a misconception that IHAs were not permitted to develop housing which met these needs.

Over the past five years, HUD has taken a number of steps to dispel the myth that it was impossible to build a home which is culturally relevant to its Native American resident. A number of regulatory revisions have been made which stress the authority of an IHA to make its own design and construction decisions. A regulatory requirement for citizen participation was added to the regulations in 1990.

In 1994, we established a Departmental Cultural Design Award to be presented each year in several categories. The first awards will be presented in the Spring of 1995. This award formally recognizes excellence in including cultural relevancy in the design of homes and facilities for Native Americans. In presenting awards, we will be doing more than merely honoring the recipients; we will be setting forth standards for others to follow in the future.

This program promotes cultural flexibility to tribes in moving into the *NEXT GENERATION* in housing opportunities.

ASSESSMENT OF NATIVE AMERICAN HOUSING NEEDS AND PROGRAMS

It has long been felt that no accurate data existed regarding the housing needs of Native Americans and Alaska Natives. Therefore, in January, 1993, the Department initiated the *Assessment of American Indian Housing Needs and Programs*. The purposes of this study were to: (1) evaluate the housing problems and needs of American Indians and Alaska Natives, (2) assess the effectiveness of existing federal housing programs in meeting those needs, and (3) compare alternative approaches and suggest ways in which federal policy regarding the housing of Native Americans could be improved.

The major findings of this study indicate that:

- o Housing problems of American Indians and Alaska Natives (AIAN) remain considerably more severe than those of non-Indians in all parts of America (particularly so in reservations and other AIAN areas), but the character of those problems varies importantly in different types of environments;
- o HUD programs have made a substantial contribution toward improving housing conditions in AIAN Areas and appear to be

relatively well managed. However, they do lack the statutory flexibility to allow for the most effective use of resources; and

- o Reform of federal housing assistance should concentrate on consolidating existing programs in a manner that gives tribes and their housing authorities broader latitude in planning and implementation to address local housing needs as they see fit, while holding them more accountable for performance.

As you will see in the Blueprint, the Department has taken these findings very seriously.

HUD's REINVENTION BLUEPRINT FOR NATIVE AMERICAN PROGRAMS

The Department's Reinvention Blueprint stresses a Federal commitment to cities, affordable housing, economic development, and to addressing the housing needs of its poorest and most vulnerable citizens. Included in this plan is a strong desire to pursue the same commitment for Native American communities. The Department's Blueprint provides an opportunity to enhance living conditions in Indian country in a manner unprecedented in past federal/tribal relations.

Over the past few years, HUD has developed a close working relationship with Tribal governments, Indian housing organizations and the Native American community. As a result, HUD programs have become a particularly valued asset to Tribal communities. There is a strong feeling that this relationship should not only continue, but do so in a manner which is even more productive, cooperative and results-oriented.

Solving the Problem not the Symptom

The Reinvention gives HUD an opportunity to address a very serious problem with federal programs in Indian country. Most programs do an acceptable job of addressing basic human needs, such as shelter, health care and food. However, they do not, for the most part, address the underlying need for the development of things such as Tribal legal systems, the lack of which precipitates the need for massive federal funding.

For example, HUD has recently implemented the Indian Loan Guarantee Program, a much needed program to assist in guaranteeing privately financed single family home loans made to Native American families. However, a major obstacle to full utilization of this program appears to be lack of Tribal laws and codes to support a modern lending system. As a result, some communities are unable to participate even though they have Tribal members ready and willing to seek private financing.

Consolidation of Programs to Better Target Resources

Today, Tribes and Indian housing authorities share in many HUD programs: Indian Housing (rental and homeownership), Modernization, Vouchers, Youth Sports, Drug Elimination, Tenant Opportunity Program, Family Investment Centers, Family Self Sufficiency, Community Development Block Grant, Emergency Shelter Grants, HOME, HOPE, the Indian Single Family Loan Guarantee Program, the FHA 248 insurance program, etc.

While many larger Tribes take advantage of all of HUD's programs, the vast majority of tribal communities are smaller and overwhelmed by the number of programs available. The nature, timing and administration of these many diverse programs inhibits the process of comprehensive planning. Because most of HUD's programs are competitive in nature, with no guarantee for funding, Tribes frequently find their Plans unachievable a short time after they are developed.

The Department's Blueprint, which ultimately creates three separate funds: a) Housing Certificates for Families and Individuals; b) Affordable Housing Fund; and c) Community Development Block Grant Fund, is precisely the type of program consolidation which will allow tribal communities to focus more precisely on their key problems, yet retain the flexibility to adjust quickly to changing local conditions.

It is anticipated that all three funds will have a Native American Program component administered separately from the non-Indian portion of the fund in order to better respond to the unique and different characteristics of America's Native communities.

Furthermore, the separate administration of programs specifically for Indian Country allows HUD to implement the Federal Government's long-standing goal to provide Tribal governments with maximum flexibility.

In addition, to the three large funds, the Indian Single Family Loan Guarantee Program is being proposed as a separate program to serve the needs of individual homebuyers seeking private financing for home purchase and construction. Although a very new program, Indian Loan Guarantee is quickly integrating itself into the Tribal housing environment. The nature of the program, which involves a federal guarantee for the private financing of housing, is structurally different from the grant-oriented programs of the Affordable Housing Fund and, therefore, should remain separate.

APPROPRIATIONS

In general, the Native American component to each of the funds will reflect that fund's over-all purpose and objectives. However, the Native American portion will be tailored specifically for Tribal governments and communities. It is recommended that appropriations for Native American programs eventually be developed on an actual dollar basis rather than the current percentage basis.

However, to accommodate the transition process, in fiscal 1996 and fiscal 1997, Tribes will continue to receive a percentage share of the Affordable Housing Fund (no less than one percent) and of the Community Opportunity Fund (no less than one and one-half percent). Specific funding will also be targeted to Indian housing new construction in the Capital Fund sub-category of the PH/IH Transformation Fund.

By 1998, the Department would recommend a specific dollar figure for Native American programs within each Fund. The primary justification for this approach is that with the shifting and consolidation of programs, there is little relevancy between today's set-asides and expected funding levels under the fund approach. For example, the IH program currently funds the off-site sanitation facilities which accompany the construction of new housing units through the Indian Housing Program. In order to provide for continued funding for this function, the Department will need to continue to address these needs through the Affordable Housing Fund or the Community Opportunity Fund.

FISCAL 96 BUDGET PROPOSAL

Fiscal 1996 will be an exciting year for Indian Country. The new program configuration will give tribes the flexibility they have lacked in the past to holistically address housing on reservations and provide the funding to develop and undertake comprehensive plans. In addition to increasing funding for the new construction of approximately 3,000 traditional Indian housing units, I have pledged no less than 1.5 percent each of the Affordable Housing Fund and the Community Opportunity Fund to go to tribes. This will provide an unprecedented \$50.085 million from the Affordable Housing Fund and \$72.75 million from the Community Opportunity Fund for moving into *THE NEXT GENERATION*.

As I mentioned earlier, the Department has chosen to maintain the Indian Loan Guarantee Program as a separately funded program. It does not readily fit into the formula-driven Affordable Housing Fund because guarantees are issued on an individual demand basis. It does not fit into the Federal Housing Administration model because, statutorily, the Indian Loan Guarantee Fund is established and funded separately from the FHA insurance fund. While we have not increased the budget

request for capitalizing this program at \$3 million in fiscal 1996, an increase in the credit limit will allow the guarantee of approximately 150 more home loans; bringing the total number of families realizing homeownership to more than 400.

The attached table reflects the current fiscal 1995 and the proposed fiscal 1996 funding levels by individual program within the Blueprint Fund structure. Programs which are currently distributed among both public and Indian housing authorities either by formula or competition are estimated on past years' funding. Because recipients will have more flexibility in using these funds, the exact distribution by program may vary from these amounts.

Native American Financial Services Organization

The Department proposes to continue its efforts in support of legislation creating the Native American Financial Services Organization (NAFSO). The importance of NAFSO is dramatically increased as a result of the Department's Blueprint. NAFSO will strengthen the foundation for community lending in Native American communities and act as a catalyst in the development of secondary markets. When this legislation is enacted, the technical assistance contract will be funded through the CDFI Fund.

Thank you, Mr. Chairman, I will be happy to answer any questions you and the Committee members may have.

U.S. Department of Housing and Urban Development

February 14, 1995

FY 1996 Budget Summary
(000s)

Category	95 Actual	96 Budget	Change
PH/HH Transformation Fund			
PIH Operating Funds			
Operating Subsidies	60,000	60,000	- 0 -
COMPAC	10,000	14,000	4,000
PIH Capital Funds			
Development	282,000	297,000	15,000
Amendments	10,000	-0-	-10,000
Modernization	170,000	189,000	19,000
Tenant Opp Program	2,000	2,000	- 0 -
Family Invest Ctrs	3,000	-0-	- 3,000
Affordable Housing Fund		50,085	50,085
HOME	14,000	-0-	-14,000
Indian Loan Guarantee	3,000	3,000	- 0 -
NAFSO	-0-	5,000 1/	5,000 1/
Homeless Block Grant			
Emergency Shelter Grants	1,568	1,568	- 0 -
Community Opportunity Fund		72,750	72,750
CDBG	46,000		-46,000
Housing Certificates for Families and Individuals			
Incremental Rental Assistance	15,500	15,500	- 0 -
TOTAL	617,068	709,903	92,835

1/ Requires authorization.



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

February 23, 1995

OFFICE OF THE ASSISTANT SECRETARY FOR
CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS

Honorable John McCain
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510-6450

Dear Chairman McCain:

On behalf of Secretary Cisneros, thank you for your letter dated February 14, 1995, regarding his testimony before the United States Senate Committee on Indian Affairs on that date. You asked that the Department provide written response to a number of questions posed by Committee members for the record and for your comments to the Budget Committee.

The questions center around the Department's Blueprint for Reinvention and the proposed budget relating to that plan. While the backbone and primary structure of the Blueprint are clearly defined, it is important to remember that the details of program administration are still in the formative stages. It is most important to the Secretary to continue the concept of "Consultation '94" in Indian Country to develop the most effective and efficient programs and delivery systems to meet the needs of the Native American Community. The Reinvention Blueprint for Native American Programs is a living document that is being fine tuned based on evolving Departmental policy and consultation with Native American leaders.

The enclosed responses reflect the current vision for the delivery of our programs to the Native American Community. The Department will continue to provide the Committee with information on the development of the Blueprint for Native American Programs.

Thank you for your continued interest in and support for the Department's Native American Programs. And thank you for providing the Secretary the opportunity to testify before the Committee.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "W. J. Gilmartin".

William J. Gilmartin
Assistant Secretary

Enclosure

UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS
FOLLOW-UP QUESTIONS TO
TESTIMONY ON FEBRUARY 14, 1995

QUESTION: Under the Affordable Housing Performance Fund proposal for FY96, your Blueprint calls for a "locality" to come up with a "Consolidated Plan" that sets forth its housing needs, the actions it will take to address those needs, and performance measures, all within the context of that locality's plan for community revitalization. For purposes of Indian Country, who are the localities you are proposing to use for these broad purposes -- tribal governments or Indian Housing Authorities? and, how will tribal governments gain more control under this plan?

ANSWER: The Department's Reinvention Blueprint for Native American Programs addresses issues slightly differently from the overall Departmental Blueprint. To facilitate the administration of activities under all three performance funds, each Tribe must develop a Comprehensive Housing Plan. The Plan must contain the specific performance expectations the Tribe hopes to achieve with its future funding. Annually, grantees will report on actual accomplishments and the Department will regularly compare program expectations with accomplishments.

Smaller Tribal communities will be able to submit a simple, short Plan. Larger Tribes will have a more extensive Plan. But in neither case will the requirements of the Plan be an onerous administrative burden to the applicant.

Each Tribe must specify in its Plan the extent to which it will interchange the formula-allocated amounts for the Community Opportunity and Affordable housing funds. All Tribes will be able to use up to ten percent of their CDBG funds for Affordable Housing purposes (and vice versa) without HUD approval. High performing Tribes will be able to interchange up to 50 percent of their funds without HUD approval, and may shift more than that amount with HUD approval.

HUD's review of the Plan is limited only to those grantees who are new to the funds or who have not achieved minimum performance measures in past funding rounds.

QUESTION: After FY96, your Blueprint says that HUD will allocate dollars within the Affordable Housing Performance Fund based on how well a locality meets "performance-based program standards." Aside from the fact that it appears it will still be business as usual with federal bureaucrats deciding whether localities meet these standards, I am most concerned about what steps you will take to make these standards fit the unique realities of Indian Country so that tribal governments and their housing authorities are not programmed to fail under performance standards

that are ill-suited for the challenges of building and rehabilitating rural housing where there is little or no basic infrastructure. How do you plan to apply these performance standards in a fair manner to Tribes?

ANSWER: From a management perspective, the Native American programs will be administered by Tribes who will have the same flexibility to use their Indian housing authority as they do today or to evolve the IHA into a Tribal Housing Corporation (THC) whose primary role will be to conduct housing activities for the Tribe.

Funding generally will be distributed on a formula basis. Much of the data used for the formulas will come from the Census Bureau. Small Tribes, rancherias, and Alaskan villages will have the option of individually managing their grants or developing a consortium with other Tribal entities geographically located nearby.

Specific performance standards and measures will be developed, primarily based on the Comprehensive Plan, and Tribes will have a great deal of flexibility as long as they are meeting the objectives and direction of the individual Fund.

Interchanging the use of dollars between the Community Opportunity and Affordable Housing funds, to a great extent without HUD approval, will provide Tribal governments with considerable flexibility which is not found today. HUD refers to this interchangeability of funding sources as "porosity."

QUESTION: You testified that HUD intends to administratively implement the Native American Financial Services Organization (NAFSO) and at the same time send forward authorizing legislation. Meanwhile, HUD's FY96 budget request indicates you are asking that \$5 million be directed to NAFSO. To what particular activities will this \$5 million be directed in FY96?

The initial \$5 million earmarked for NAFSO will be used as "start up" money to establish the organization, which may total about \$500,000. The balance will be used to establish a technical assistance contract executed through the Community Development Financial Institution Fund (CDFI Fund) to assist in the development of Native American Financial Institutions (NAFIs) pursuant to the CDFI Act.

QUESTION: How many FTE positions are dedicated in FY95 to carrying out HUD's services to Indians and Alaska Natives, and why are you requesting fewer FTEs in FY96?

ANSWER: In FY95 the Department will have 217 FTEs devoted to Native American programs both in Washington, DC, and outstationed at the field Offices of Native American Programs (FONAPs). In FY96, the Department estimates that there will be 215 FTEs devoted to these programs, a staffing reduction of just under one percent. The Department overall is realizing a reduction of nearly two percent.

It is the Administration's goal to reduce federal programs and federal oversight,

and down-size federal employment. In order to attain those goals, this Department has developed a Blueprint which provides state and local governments, as well as tribes, the flexibility to administer programs to meet their needs in the most efficient way possible for them. That Blueprint also reduces the role of the Department in the delivery and oversight of those programs. Formula driven, performance based funding naturally requires less intervention than competitively awarded, tightly regulated programs.

We foresee the role of the ONAP staff evolving into one of monitoring achievement against established performance measures and providing technical assistance to Tribes and their housing agents to deliver the programs effectively.

QUESTION: HUD proposes in its FY96 budget proposal to allocate public housing capital and management improvement funds under current formulas. How many such dollars are going to Indian Reservations and communities in FY95? Will the same amounts be allocated to Indian Country in FY96?

ANSWER: It is estimated in FY95 that approximately \$467 million (\$273 million for new construction of traditional Indian housing) in PIH Capital Funds will flow to Indian reservations. In FY 96, those projections rise to approximately \$488 million (\$297 million for new construction) in Capital Funds. Except for specific amounts earmarked for new construction, other figures are based on previous program activity.

QUESTION: HUD's FY96 request also promises to allocate operating funds for Indian Housing Authorities operations under the FY95 formula. How much of these funds went to Indian Reservations and communities in FY95? How much will be allocated to Indian Country under your FY96 request?

ANSWER: Approximately \$70 million in FY95 and \$74 million in FY96 in PIH Operating Funds will flow to Indian Reservations. These estimates are based on the Indian prorata share of these programs in the past.

QUESTION: Under your Blueprint for HUD's future, how do you reconcile the nearly absolute lack of any private rental housing in Indian communities with the Blueprint's plan to provide rental assistance directly to Indian families rather than to Indian Housing Authorities? If part of your plan is to convert IHAs rental units to private rental housing, how much will it cost the US to fix up this rental property so that it can provide decent, safe and sanitary shelter worthy of the rent to be paid for it?

ANSWER: On a few reservations the supply of private rental housing is ample and, as a result, flexibility for the family is available. But the majority of Indian country experiences a shortage or total lack of private rental housing. In these markets a transition to tenant-based assistance will not, in fact, increase the housing choices low-income Indian families now have unless they are willing to leave their

reservations completely. However, Tribes may desire to allow participants such additional flexibility where it enhances the family's ability to secure economic or educational opportunity. In these cases, the Tribes or their housing subsidiaries would have the option of renting vacated units to anyone in need of housing including those whose income would be sufficient to pay a true market-rate rent.

Over the transition period of FY95 through FY96, it is estimated that approximately \$359 million will be spent on modernizing traditional Indian housing units. These projections are based on past formula allocations.

Further, the Department envisions a transition period, beginning in FY96, where funds remain project-based, and are allocated through the Operating Grant Fund and the Capital Grant Fund (these are sub-funds under the PH/IH Transformation Fund.) In the next stage, assistance becomes market rate and project-based or tenant-based, depending on local needs.

QUESTION: In this year's budget request for Native Americans, does the Executive Branch propose to reduce payments, or benefits to Indian tribes, tribal organizations and individuals to offset tribal income or individual employment income from treaty or otherwise protected activities, such as gambling or fishing? As just one example, does the Administration propose reducing assistance to a tribe or group of tribes to reflect the amount of money they and their members earn from owning an operating Class III gaming establishments?

ANSWER: By and large, income from "protected activities", is exempt from federal taxation, but not exempt from the computation of benefits for other programs. A tribe's "wealth", much like a State's "wealth", is not directly considered in providing benefits to its individual recipients. However, whether tribal or individual, this income is included indirectly, or directly, in needs-based programs. For instance, if tribal members receive significant distributions from tribal assets they likely will not qualify for income-based assistance programs. Therefore, factors used in determining a tribe's "share" of a formula-driven program would indicate a low level of need.

If so:

(a) what specific programs or payments are subject, or not subject to being reduced?

Nearly all assisted programs take need into consideration when developing formulas or selection criteria for benefits. Needs are generally determined by census demographics, housing waiting lists, crime rates, etc. It is assumed that there is an inverse relationship between wealth and needs when determined using these factors.

(b) how is the amount of reduction determined by formula? what is that formula? Specific formulas are much too complex to provide in this document. However, if the Committee desires, specific selection criteria and allocation formulas can be provided. For competitive programs, selection criteria are published in the Federal

Register when fund availability is published.

(c) how is this reduction reflected in this year's Administration budget request? Please be specific.

Reductions are reflected in the amount of funds available for distribution among other competitors for the funds. The formulas used to determine tribal needs are similar in many cases, and exact in most cases, to those used to determine needs of States and other localities.

If not:

(a) why not?

(b) is it not possible or desirable to determine a specific formula for reducing funding to offset income derived from protected activities?

(c) are there any legal or legislative barriers to making such a reduction in federal payments?

OPENING STATEMENT
 of
ADA DEER, ASSISTANT SECRETARY - INDIAN AFFAIRS
 on the
FY 1996 BUDGET REQUEST FOR THE BUREAU OF INDIAN AFFAIRS
 before the
COMMITTEE ON INDIAN AFFAIRS
U.S. SENATE
February 14, 1995

Introduction

Good morning, Mr. Chairman and Members of the Committee. I appreciate the opportunity to present the President's FY 1996 budget request for the Bureau of Indian Affairs (BIA). The BIA's request totals \$2.36 billion which includes \$1.91 billion in current authority and \$447.8 million for permanent appropriations and trust accounts. The FY 1996 request is \$163.3 million more than enacted in FY 1995 for programs funded by direct appropriations. The FY 1996 request was developed with Tribal participation and stresses Indian Self Determination, investments in education, critical infrastructure needs, and the Secretary's commitment to trust fund and trust asset management reform.

Operation of Indian Programs

In 1996, over half of the BIA operating budget will be administered by Tribes who elect to operate various BIA programs under Self Determination contracts, grants, or Self Governance compacts. BIA's administrative costs are modest; 86 cents of every operating dollar goes directly to the reservations. A total of \$1.6 billion is requested for the Operation of Indian Programs (OIP) appropriation, the BIA's major account. This request continues virtually all the amounts added by Congress last year and provides a net increase of \$86 million over the FY 1995 enacted level. The major program increases are in the areas of Indian education, tribal self-determination, and BIA management improvements.

Education

About one-third of all OIP resources are directed towards providing a quality education for Indian students, to improve future prospects for employment, expand economic opportunities, and enhance community life on Indian reservations. The FY 1996 OIP request provides \$539.4 million for BIA-funded elementary and secondary schools, colleges, and undergraduate and graduate scholarships. The School Operations request totals \$440.1 million, an increase of \$32.8 million, largely to provide for increasing enrollment. Funds of \$22.8 million for the Johnson-O'Malley Education Assistance are provided in the Tribal Priority Allocations program in FY 1996. Funding for the 24 Tribally Controlled Community Colleges is continued at \$27.4 million. The BIA continues the moratorium, adopted by Congress in the FY 1995 Department of Interior Appropriations Act, which prohibits adding any new schools beyond those that will be in the BIA system on September 1, 1995.

Indian Self-Determination

The 1996 BIA budget stresses the resources Tribes need to develop strong and stable Tribal governments. This continues the Secretary of the Interior's commitment to continue a meaningful Self-Determination policy under which Indian people fully participate in the planning, conduct, and administration of Indian programs and services. This commitment is most vividly demonstrated in the continued growth of the Tribal Priority Allocations portion of the BIA's FY 1996 budget of \$766.6 million or almost half (48 %) of the BIA operating budget. TPA is increased by \$245.6 million over 1995, mainly due to the transfer of programs totaling \$218.0 million into TPA. For the first time, Contract Support for ongoing Tribal contracts is included in TPA, providing Tribes with the opportunity to better manage their contracts and associated support costs within their TPA allocations. Additional increases in TPA include \$6.5 million for Contract Support, \$8.4 million for New Tribes, and \$2.0 million for Small and Needy Tribes.

In addition, requests for \$7.0 million in contract support funds for new and expanded Tribal contracts and \$7.4 million for Self-Governance grants ensures that the Self-Governance Tribes receive their negotiated share of the Bureau's budget without adversely affecting other Tribes. This funding will provide grants to 20 additional tribes authorized to enter into funding compacts in FY 1996.

Public Safety and Justice

As authorized in the Indian Tribal Justice Act of 1993, the BIA budget provides \$5.0 million for start up grants for the development of Tribal justice systems. This funding allows Tribes to address their law enforcement concerns while at the same time recognizing their inherent authority to establish their own form of Tribal judicial systems.

Child Protection and Family Violence Prevention

The 1996 budget request includes \$5.0 million to initiate a child protection and family violence prevention grant program, a new program in FY 1996 authorized in the Child Protection and Family Violence Prevention Act enacted in 1990. Tribes will use the grants to establish programs to protect Indian children and reduce family violence in Indian country.

Construction

The FY 1996 request for the Construction appropriation is \$125.4 million, a reduction of \$4.6 million below the FY 1995 enacted level. Over half of the request (\$69.2 million) is for Education Construction. That is an increase of \$21.9 million over 1995 which reflects the importance of continued funding for school construction projects as well as critical school repair projects that can be accomplished in 1996. In the 1996 request, New School Construction is funded at \$35.0 million, \$30.5 million over FY 1995. This increased funding provides \$13.5 million for the construction of the Many Farms school in Arizona and \$21.5 to complete the Chief Leschi School in Washington State. They are ranked fourth and eighth on the New School Priority List which is currently limited to 16 schools. The six other schools on the first half of the Priority List are either completed or are scheduled for 1995 construction. Education

Facilities Improvement and Repair program is funded at \$31.2 million, a level compatible with BIA's anticipated progress in obligating FI&R funds.

The Budget also requests \$8.9 million to construct the new Ute Mountain Ute Detention Facility in Colorado. Fire protection and prevention capabilities will be enhanced by the \$4.8 million requested which will fund improvements such as new alarm and sprinkler systems in schools and detention centers.

The BIA budget includes \$30.0 million for the Safety of Dams program, an increase of \$12.0 million over FY 1995. This increased funding will accelerate the correction of structural deficiencies of high hazard dams on Indian Lands.

Indian Land and Water Claims Settlement and Miscellaneous Payments to Indians

The \$151.0 million requested for this appropriation includes \$136.3 million for Indian Land and Water Claims Settlements. The FY 1996 settlement payments, an increase of \$19.8 over FY 1995, continues payments for legislative settlements resolving long standing Tribal claims to water and lands. The program continues those payments for nine settlements as well as the Navajo Indian Irrigation Project and water rights negotiation and litigation studies. Program increases include \$7.6 million to ensure the Navajo Indian Irrigation Project continues on schedule and \$8.7 million for continuation of the Tongue River Dam Project as required in the Northern Cheyenne Settlement Act of 1992.

Tribal Land Consolidation

The FY 1996 budget request includes \$12.5 million to purchase highly fractionated interests in Indian lands pursuant to a legislative proposal which deals with one of the effects of the General Allotment Act (GAA). As allotted land held in trust has passed from generation to generation, ownership has often been divided among increasing numbers of heirs which diminishes the economic utility of Indian lands. The ownership interests, which continue to fractionate at a geometric rate, have complicated and overextended the BIA's realty, land records, and accounting management systems that support its responsibilities as trustee of Indian lands. Given the extraordinary constraints on Federal spending, an integral part of the proposal is the recoupment of these acquisition costs. The Bureau will submit its legislative proposal to the Congress upon completion of its consultation with Tribes and individual Indians.

Legislation will be proposed to authorize such tribal land consolidation purchases, as well as to amend Indian inheritance law to prevent future fractionation of Indian land ownership.

Trust Fund and Trust Asset Management Reform

The Secretary's fiduciary responsibility for over \$2.0 billion in Tribal and individual Indian trust funds requires an even higher level of care than the traditional fiduciary. The Secretary is required to invest funds in the highest interest bearing securities allowed under law, while at the same time maintaining their safety. The Department and the BIA have been aggressively pursuing improvements in trust funds management over the past year, as well as improvements

in the management of underlying ownership records and natural resources, in accordance with the Secretary's reform plan. The FY 1996 request provides the necessary funding to continue these efforts as well as fulfill the requirements of the recently passed American Indian Trust Fund Management Reform Act (Public Law 103-412).

To fulfill requirements of the Act, \$12.7 million is included in the FY 1996 request to reimburse individual Indian account holders for retroactive interest relating to principal losses incurred between 1984 and 1988 as a result of investments in failed financial institutions; and, the resources necessary to begin provision of technical assistance for development of tribal investment plans are included in the funds requested for the Office of Trust Funds Management.

The FY 1996 request of \$7.2 million will continue funding for land records improvement at an increased level. This initiative, which began in 1993, will automate existing manual processes required for land title and records functions, as well as continue to reduce backlogs.

National Performance Review

The Department of the Interior Management Council approved four re-invention laboratory projects designed to improve the delivery of services to Indian tribes and individuals. They are (1) streamlining the non-procurement contract award process; (2) streamlining the Housing Improvement Program; (3) establishing a partnership with other federal agencies for a one-stop service delivery approach currently in place for the Oglala Sioux Tribe that could be expanded to other tribes in South Dakota; and (4) developing an advanced approach for the collection and distribution of lease income for individual land owners on the Standing Rock Reservation.

Also, the BIA has developed a Customer Service Plan to improve performance and responsiveness towards Indian tribes and individuals. The major goals are a 50 percent reduction in program regulations, a reengineering of core business procedures and systems, and giving tribal governments increased decision making authority by 1999. Implementation of customer standards will start in FY 1995.

BIA's Streamlining Plan

With this FY 1996 request, the BIA is expected to eliminate 448 FTEs and reduce administrative expenses by \$34.5 million during the FY 1994-1996 period. Consistent with the Joint Tribal/BIA/DOI Task Force and the National Performance Review recommendations, the BIA plans to downsize its headquarters and area offices and decentralize program responsibilities to the local Tribe and agency levels. The BIA has developed a streamlining plan with several options which were presented to the Tribes during January 1995. A final plan incorporating Tribal comments will be submitted to Congress.

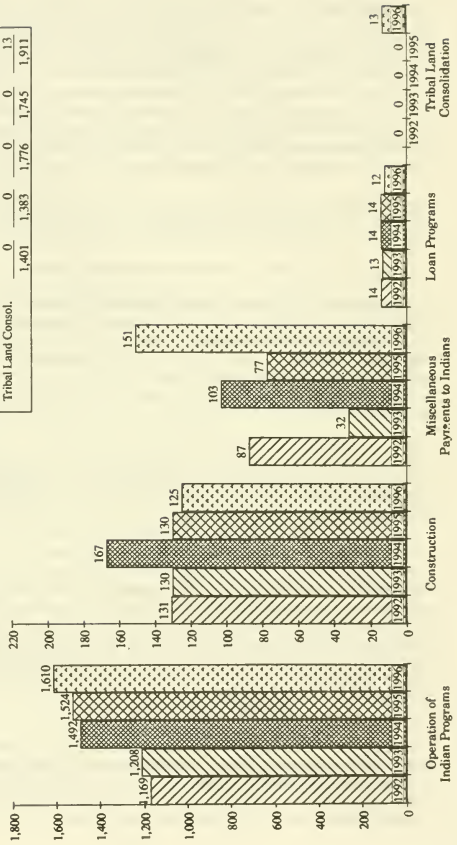
Conclusion

This concludes my opening statement, Mr. Chairman. I and other BIA officials will be pleased to answer questions of the Committee.

Chart 1

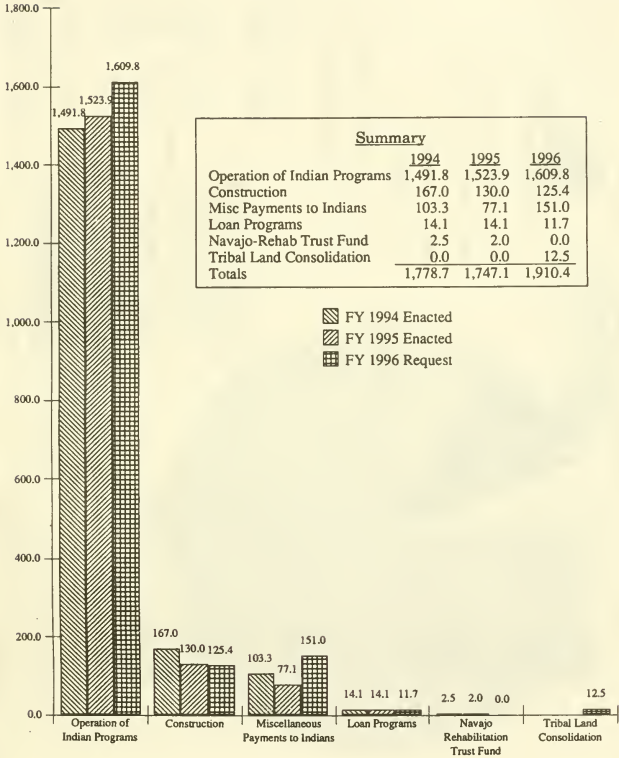
BUREAU OF INDIAN AFFAIRS
Administration Budget Requests
FY 1992 - FY 1996
(Dollars in Millions)

	Summary				
	1992	1993	1994	1995	1996
OIP	1,169	1,208	1,492	1,524	1,610
Construction	131	130	167	130	125
Misc. Pay. to Indians	87	32	103	77	151
Loans	14	13	14	14	12
Tribal Land Consol.	0	0	0	0	13
	1,401	1,383	1,776	1,745	1,911

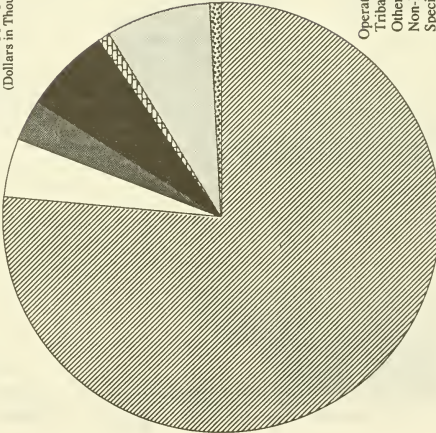


BUREAU OF INDIAN AFFAIRS
FY 1996 Request Compared to FY 1994 Enacted and FY 1995 Enacted
(Dollars in Millions)

Chart 2



DISTRIBUTION OF FY 1996 BUDGET REQUEST (Direct Appropriations) (Dollars in Thousands)

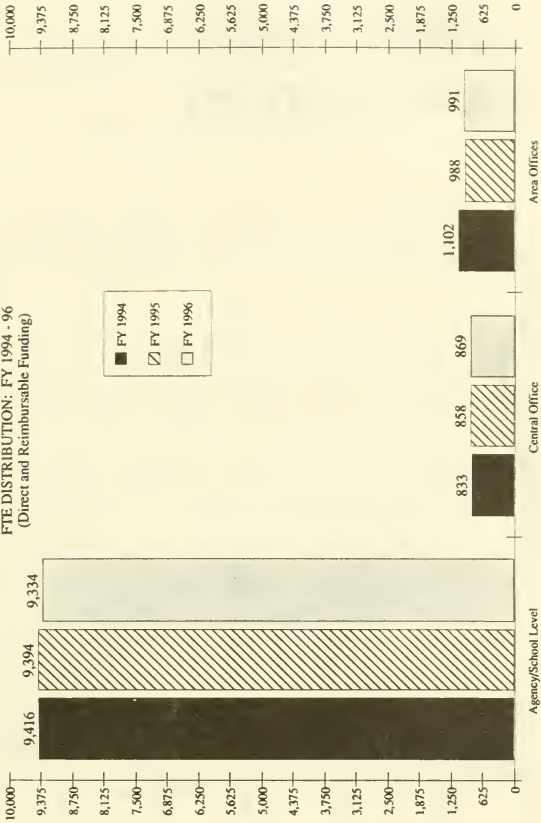


- OIP, excluding Central and Area Office Operations (76.78%)
- Central Office Operations (4.61%)
- Area Office Operations (2.88%)
- Construction (6.57%)
- Loan Programs (0.61%)
- Miscellaneous Payments (7.90%)
- Tribal Land Consolidation (0.65%)

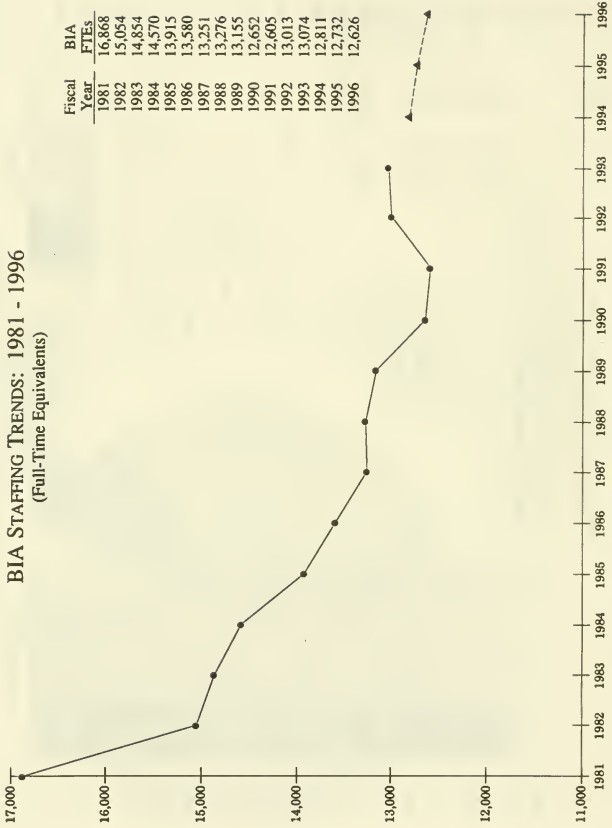
	FY 1995 Enacted	FY 1996 Request	Change
Operation of Indian Programs			
Tribal Priority Allocations	521,010	766,573	245,563
Other Recurring Programs	703,561	542,018	-161,543
Non-Recurring Programs	81,221	66,480	-14,741
Special Programs & Pooled Overhead	84,090	91,778	7,688
Central Office Operations	80,537	88,069	7,532
Area Office Operations	53,443	54,924	1,481
Construction	130,021	125,424	-4,597
Loan Programs	14,116	11,650	-2,466
Land & Water Claim Settlements and Miscellaneous Payments to Indians	77,096	151,025	73,929
Navajo Rehabilitation Trust	1,996	0	-1,996
Tribal Land Consolidation	0	12,500	12,500
Total	1,747,091	1,910,441	163,350

BUREAU OF INDIAN AFFAIRS
Operation of Indian Programs

FTE DISTRIBUTION: FY 1994 - 96
(Direct and Reimbursable Funding)



BIA STAFFING TRENDS: 1981 - 1996
(Full-Time Equivalents)



NOTE: FY 1994-96 excludes FTEs allocated by BIA to other federal agencies.

TESTIMONY OF
HAROLD A. MONTEAU
CHAIRMAN, NATIONAL INDIAN GAMING COMMISSION
BEFORE
THE SENATE COMMITTEE ON INDIAN AFFAIRS
February 14, 1995

Mr. Chairman, Members of the Committee, thank you for the opportunity to appear before you today. My name is Harold Monteau. I am the Chairman of the National Indian Gaming Commission. With me today are Commissioners Jana McKeag and Lacy Thornburg.

Background

The Indian gaming industry began in the 1970's but the National Indian Gaming Commission was not established until 1988. The first Chairman of the Commission was appointed in 1990 and the remaining two Commission members were appointed in 1990 and 1991. The Commission developed, proposed, and issued regulations over the next 21 months. Finally, about 15 years after the industry began, the Commission became operational in early 1993.

It was concern about the regulation of the approximately 100 gaming operations existing in 1986 that led to the passage of the Act and the formation of this Commission. Meanwhile, Indian gaming has been growing in size and complexity. Approximately 200 Indian tribes have become, or are becoming, engaged in or have licensed over 225 gaming operations on Indian lands. Tribes continue to open new and expand existing gaming operations.

The Commission, an independent three-person regulatory agency administratively located within the Department of the Interior, was established by the Indian Gaming Regulatory Act (IGRA) which was signed into law on October 17, 1988. The IGRA was enacted as a response to the proliferation of tribal gaming establishments in Indian Country operating without federal regulatory oversight.

The primary purpose of the Commission is to monitor and oversee the regulation of class II gaming such as bingo and pull tabs conducted on Indian lands. The Commission also approves class III tribal gaming ordinances and management contracts and has the authority to impose civil penalties or to close a gaming establishment for substantial violations of the IGRA, regulations promulgated by the Commission, or tribal gaming ordinances.

The Commission conducts background investigations of entities and individuals with a financial interest in, or management responsibility for, class II management contracts, but not for class III management contracts. The regulation of class III gaming is primarily the responsibility of the tribes and the states as set forth in the compacts negotiated between those parties.

While the authorities and responsibilities of the Commission as set forth in the IGRA are fairly straightforward, in reality they are considerably more extensive and complex. For example,

- The number and complexity of gaming operations has been increasing steadily.
- Many class III operations include class II games, activating the Commission's involvement and triggering the need for, among other things, background investigations of contractor entities and individuals.
- Many management contracts involve provisions calling for the construction of new or the expansion of existing facilities, triggering the requirements imposed by the National Environmental Policy Act, the National Historic Preservation Act, and the Endangered Species Act.
- Some of the other regulators of Indian gaming, both tribes and states, have been reluctant to, or at least slow to, begin undertaking their responsibilities under the Act, placing a greater burden on the Commission.
- Many of the tribes, the management contractors, and the gaming operations have not voluntarily complied with the provisions of the Act, creating an immediate backlog of serious compliance problems requiring action by the Commission.
- Many other government agencies initially at least have been reluctant to share important information with the Commission in part at least because the Commission lacks status as a law enforcement agency.

The passage of the Act and the formation of this Commission provide a statutory basis for the regulation of gaming by Indian tribes. The Act provides that regulations are necessary to shield tribes from organized crime and other corrupting influences, to ensure that they are the primary beneficiaries of the gaming operations, and to assure that gaming is conducted fairly and honestly by both the operators and players.

Commission Responsibilities

The Act assigns specific functions to the Commission, including the following:

- Review and approve/disapprove all new and existing class II and class III --
 - Ordinances;
 - Management contracts; and
 - Tribal background investigations and suitability determinations on primary management officials and key employees.
- Undertake background investigations on individuals with management responsibility for, or a financial interest in, contracts to manage class II, and combined class II and class III, Indian gaming operations.
- Monitor class II gaming conducted on Indian lands on a continuing basis; inspect and examine all premises located on Indian lands on which class II gaming is conducted.

Additionally, the Commission must:

- Educate the tribes and gaming operators as to the applicable regulatory requirements;
- Undertake enforcement actions in situations where voluntary compliance cannot be obtained;
- Entertain and process appeals; hold hearings and
- Defend against lawsuits challenging the Commission's actions.

Activities

Operational since 1993, the Commission is reviewing all tribal ordinances, management contracts, and reports on tribally-conducted background investigations of key employees and primary management officials. The Commission itself is conducting or causing to be conducted background investigations and making suitability determinations on individuals and entities with a financial interest in, or management responsibility for, a management contract. The Commission is continuing to conduct introductory, on-site reviews of all new and existing gaming operations.

Our current estimate is that there are about 200 tribes operating 225 gaming operations, class II, class III, or both. The Commission is charged with reviewing and approving the tribal ordinances for each of these tribes, as well as any new ordinances adopted. The review and approval of these ordinances is important for three reasons: 1) their approval activates two Federal criminal statutes which concern theft from Indian gaming establishments; 2) their approval triggers the requirement that the tribe conduct background investigations on the key employees and primary management officials of a gaming operation; and 3) their approval triggers the requirements for an annual, independent audit. We have reviewed over 175 new or existing ordinances and approved or disapproved over 150.

Charged with approving all class II and class III management contracts, the Commission has received a significant number of new management contracts for review and approval, and has begun calling in existing contracts. Background investigations are being conducted in order to determine the suitability of the hundreds of individuals and entities involved. Fourteen (14) management contracts have been approved, fifty-eight (58) are in process at various stages, and approximately thirty-five (35) contracts previously approved by the Secretary of the Interior need to be called in for review.

The Commission began collecting fees in FY 1991 but did not begin using them until FY 1993. The Commission decided to retain those fees and use them to process the backlog of reviews and investigations that accumulated while the Commission developed, proposed, and issued regulations. The Commission considered using the remaining fees for that purpose but decided that this may not be the most prudent course of action.

We have been building the Commission staff over the past four years fully aware of (1) the responsibilities given to the Commission, (2) the growth and complexity of the industry, and (3) the funding available. We have now reached a size that can no longer be supported by the amount of appropriated funds and fees, and have thus begun using a portion of the remaining accumulated fees to make up the deficiency. While we know that the first hurdle is the limit on authorized funds, we are building the Commission staff for the long-term needs of the industry, not to meet the short term or immediate needs alone. The funding uncertainties, the statutory limitations, and the growing needs of the industry dictate that we request and obtain maximum funding while retaining a portion of the fees to cope with unknown funding and industry driven needs.

1996 Budget Request

The FY 1996 Budget request for the National Indian Gaming Commission (Commission) is \$1,000,000. It is the same amount that was enacted for FY 1995.

Operating costs of the Commission are financed in part through annual assessments paid by gaming operations to the Commission to cover part of the operating costs it incurs in performing its required regulatory functions. Federal appropriations are requested to cover all other operating costs. Annual assessments and appropriations are each limited to \$1,500,000 thus providing the Commission with a maximum annualized operating budget of \$3,000,000, with no provisions for industry growth or increases in operating costs.

The Act allows the Commission to request appropriated funds in an amount equal to the amount of funds derived from assessments for the fiscal year preceding the fiscal year for which the appropriation request is made. The Commission's 1996 request for \$1,000,000 is based on the assumption that it will derive fees of \$1,500,000, thus enabling it to operate at a spending level of \$2,500,000.

Unfortunately, there is more work mandated and needed than can be done within the \$3,000,000 statutory limitation. Fortunately however, the Commission for now has available fees it collected but did not use in the first three and one-half years of its operation.

As mentioned earlier, the Commission began collecting fees in FY 1991 but did not begin using them until FY 1993. The Commission decided to retain those fees and use them to process the backlog of reviews and investigations that accumulated while the Commission developed, proposed, and issued regulations. The Commission expects to use approximately \$1,500,000 of the remaining fees in FY 1995 and 1996 for operations, to process the backlog, and, as needed, to undertake special investigations and enforcement actions.

In addition, relative to its mission, the Commission will incur costs and receive reimbursements for processing criminal records checks and conducting certain background investigations. The costs incurred and reimbursements received for these activities are estimated to be \$1,250,000. It should be noted however that although the Commission receives reimbursement for processing criminal records checks and for the costs of background investigations, the Commission is also limited by the number of FTEs authorized. As a consequence, the Commission must limit certain program work to use FTEs for background investigations.

Positions

Through last calendar year, the Commission was limited to 28 FTEs. However, 5 more FTEs for the current year and 4 more FTEs for 1996 have recently been allocated to the Commission giving it a total of 33 FTEs for 1995 and 32 FTEs for 1996. The Commission has been, and will continue using these FTEs to perform its various functions roughly as follows:

	<u>1995</u>	<u>1996</u>
Commission Members	3	3
General Counsel	1	1
Executive Director	1	1
Ordinance reviews	2	1
Management contract reviews		
Financial reviews	2	2
Legal reviews	1	1
NEPA compliance	1	1
Background investigations	3	3
Administrative support	1	1
Tribal background investigations/ fingerprint card processing	4	4
Enforcement actions	2	2
Communications (including FOIA and Privacy Act)	1	1
Information systems and data base management	2	2
Accounting (fees, investigation expenses, etc.)	1	1
Field visits with tribes and gaming operations	2	2
Liaison with regulators/law enforcement agencies	2	2
Administrative appeals and litigation support	2	2
Other administrative support	<u>2</u>	<u>2</u>
Total	<u>33</u>	<u>32</u>

Fee Assessments and Use

As noted previously, a substantial portion of the Commission's FY 1996 operating expenses will be derived from sources other than appropriations:

Fees:	
Current FY	1,500,000
Prior years'	<u>1,445,000</u>
Subtotal	\$ 2,945,000
Reimbursements:	
Costs of background investigations	1,000,000
Fingerprint checks	<u>250,000</u>
Subtotal	\$ 4,195,000
Appropriations	<u>1,000,000</u>
Total	\$ <u>5,195,000</u>

In addition to the fees to be collected in FY 1996, the Commission should have collected approximately \$6,000,000 in fees before the end of FY 1995. Any unused fees remain available to the Commission without limitation.

The Commission has been, and will continue, using these funds to supplement its operating costs, and in a one-time effort, to reduce the very large backlog of cases that have been accumulating. A portion will be used for investigatory and other necessary services on a contractual basis. Our legislation authorizes us to enter into contracts with Federal, state, tribal and private entities for activities necessary to the discharge of the duties of the Commission. We intend to, where appropriate, use this authority to acquire, as needed, necessary expertise and temporary personnel to avoid the build-up of an unwieldy permanent staff.

To the extent possible, these funds will be used to, among other things:

- Monitor all existing class II gaming operations;
- Review tribal background investigations of the thousands of primary management officials and key employees;
- Review and approve all existing class II and class III management contracts; and
- Review and approve all existing class II and class III gaming ordinances.

Meanwhile, the permanent staff will:

- Oversee the above activities;
- Process new ordinance and management contract applications;
- Advise tribes and operators on the operating requirements of Commission regulations;
- Take appropriate enforcement actions;
- Defend the Commission against legal challenges to the Commission's regulations and enforcement actions; and,
- Perform the other day-to-day responsibilities of the Commission.

It is the Commission's intent that some of the funds obtained through assessments be kept available for use for special investigations and the support of law enforcement efforts.

Finally, I am happy to be able to say that we are making progress in our regulatory endeavors and in attaining cooperation in the field from most of the tribes. In the past 2 years we have brought over 150 tribal ordinances into compliance with IGRA and we are processing another 30. We have approved fourteen management contracts, three modifications, and have some fifty-eight more awaiting review, final revisions, or additional information from the tribe or contractor. We have also taken enforcement actions such as closing three illegally operating halls and curtailing illegal activity at a fourth, and causing unsuitable management contractors to leave Indian gaming as contractors. We have conducted workshops and participated in seminars to help tribes comply with our regulations and issued numerous Bulletins to inform and educate the Indian gaming industry. Our field representatives have visited almost all of the class II and most of the class III operations throughout the country to explain IGRA to the tribes and to make recommendations to the tribes on how to comply with our regulations.

* * * * *

Mr. Chairman, this concludes my opening statement. Again, I appreciate the opportunity to discuss these matters with you and will be pleased to answer any questions the Committee may have.

Written Testimony**Submitted by****The Honorable Hazel R. O'Leary, Secretary****United States Department of Energy**

Mr. Chairman and members of the Committee, the Department of Energy is pleased to provide a report on the fiscal year 1996 budget for Indian programs administered by its program offices.

The Department of Energy performs critical missions for the American people: advancing U.S. leadership in science and technology, safeguarding national security, cleaning up the Cold War environmental legacy, and securing an affordable, sustainable, and productive energy future. These missions are carried out in ways that most effectively utilize and integrate our unique scientific and technological assets, engineering expertise, and facilities.

Under the authority of Title XXVI, Indian Energy Resources, of the Energy Policy Act of 1992, the Department, in consultation with the Department of Interior, has established and implemented a program to assist Indian tribes in pursuing energy self-sufficiency and to promote the development of a vertically integrated energy industry of Indian reservations. The Department's Indian programs are administered through the Energy Research and the Environmental Management elements of the Department.

Energy Resources

The Department is engaged in efforts to expand the energy technology options available to the American people. We encourage efficiency and advance alternative and renewable energy technologies, increase energy choices for all consumers, assure adequate supplies of clean, conventional energy, and reduce U.S. vulnerability to external events. Under the authority of sections 2603 and 2606 of the Energy Policy Act of 1992, several Indian programs are administered by the Department's Energy Resources activities through its Energy Efficiency and Renewable Energy and Fossil Energy program offices, and the Energy Information Administration. .

The Energy Efficiency and Renewable Energy program is providing funds to Indian Tribes to evaluate the feasibility, develop options for, and encourage the adoption of energy efficiency and renewable energy projects. With fiscal year 1994 funds, 18 grants were awarded to Tribal Governments for energy efficiency projects. The Department has issued a Notice in the Federal Register for a fiscal year 1995 solicitation, using \$1.5 million. After May 15, selections will be made, and grants will be awarded to continue these projects. Regarding the fiscal year 1996 budget request for this ongoing activity is \$2.970 million.

The Energy Efficiency and Renewable Energy program is providing support for the construction of the Tazimina hydroelectric project near Iliamna, Alaska. Funds for the 700 kw run-of-the-river hydroelectric facility are being cost-shared with the State of Alaska. One-time funding of \$3.4 million, covered by fiscal year 1995 appropriation, will be combined with \$5 million from the State of Alaska to support this project. Currently, Alaska is working with the Federal Energy Regulatory Commission to obtain the required permits. The Department will continue to provide management support through its Idaho Operations Office.

Under the Fossil Energy program, the Alaskan Initiative is being supported. In fiscal year 1995, the Department is spending \$733,000 for a Native American Technology Transfer Program. Of these funds, \$100,000 will be used by the Morgantown Energy Technology Center to support a study of electrical and thermal energy service options to remote locations of interest to the Alaskan Energy Authority and to Alaskan Native regional and village corporations.

The remaining \$635,000 will be used to fund one or two projects to be awarded through a competitive solicitation to demonstrate small atmospheric fluidized-bed combustion systems and/or coal-bed methane-fired fuel cell systems for remote Native American villages. The demonstrations will provide heating and/or electricity for tribal populations and promote technologies that

may be attractive for export by U.S. industry. The solicitation will be open to tribes which are located in all 50 states.

The Department's policy and Fossil Energy Offices are working together to help Tribes assume the responsibility for management of their own oil and gas resources and environmental compliance of oil and gas activities on tribal lands. \$40,000 in both FY 1994 and FY 1995 have been earmarked for a training program for tribes being carried out by the Naval Petroleum Reserve at Casper, Wyoming.

Tribes are also participants in Fossil Energy's Exploration and Drilling program. In FY 1995, \$3.7 million has been appropriated for this program and \$4.6 million has been included in the President's budget request for FY 1996.

The Department's Energy Information Administration is sponsoring a program for American Indian Higher Education. Fiscal year 1994 funds have been used to sponsor the American Indian Heritage Month Program and a summer student partnership. \$21,000 supported one student from Alabama State, two from Navajo Community College, and one from Northern Arizona University. These activities will be continued at the same level for fiscal year 1995 and fiscal year 1996.

Environmental Management

The Department of Energy is engaged in the largest environmental cleanup in the nation's history. The Department is working to understand and reduce the environmental, safety, and health risks and threats, and to develop the technologies and institutions required for solving domestic and global environmental problems. Indian programs administered by the Department's Civilian Radioactive Waste Management and Environmental Management program offices are contributing to these goals.

Under the Civilian Radioactive Waste Management program, the Department is supporting the National Congress of American Indians (NCAI) in its efforts to assist in implementation of the Nuclear Waste Policy Act of 1982. We are providing \$534,455 in fiscal year 1995, for activities that serve the needs of a broad membership of Indian and Native governments, organizations, and tribal members in their participation of the radioactive waste program. Funds are used to support various national and regional committee meetings and activities, including planning and facilitating a radioactive waste workshop at the NCAI annual conventions which address radioactive waste management issues.

Information will be disseminated by the National Indian Nuclear Waste Policy Committee; Indian Tribes will continue to participate in research and regulatory-related activities dealing with spent nuclear fuel and radioactive waste transportation and storage issues, including the development of a model tribal

transportation regulatory code;" workshops will be conducted on radiological emergency response, and support participation in Yucca Mountain stakeholders meeting. This activity is a multiyear effort expected to be renegotiated in December 1997.

The Environmental Management program provides significant support for Indian program activities. A total budget of \$11,352,000, appropriated in fiscal year 1995, is being applied to several projects. Through the Office of Public Accountability (EM-5), the Program is working with Tribes such as around the United States, at locations near or adjacent to the Department's sites or along transportation corridors used for shipping hazardous waste by DOE.

These Tribes include the Pueblos of Cohiti, Jemez, Santa Clara, and San Ildefonso in New Mexico; the Navajo Nation in New Mexico and Arizona; the Nez Perce Tribe and the Shoshone Bannock Tribes in Idaho; the Yakima Indian Nation in Washington; the Confederated Tribes of the Umatilla Indian Reservation in Oregon; and the Seneca Nation of Indians in New York.

Tribal members advise the Department on cultural resources, action plans, and regularly participate in Departmental meetings and national conferences to inform other Tribes of their interactions with the Department of Energy. Agreements are being developed with Tribal Governments to provide resources needed to

build a core environmental management program and to enhance the capacity of the Tribe to interact effectively with the Department. EM-5 will soon publish a notice of Program Interest in the Federal Register to solicit innovative proposals from Tribes connected with the cleanup of Department of Energy sites.

To date, five cooperative agreements and four planning grants have been issued, and one grant is pending. The Department supports and attends national meetings of tribal organizations to present initiatives and opportunities for Tribal leaders to become involved with the Department's decision-making process and to be introduced to innovative technologies.

The Department is working with the Council of Energy Resource Tribes, the National Congress of American Indians, the National Tribal Environmental Council, the American Indian Science and Engineering Society, and Americans for Indian Opportunity.

In addition to these activities, the Environmental Management program provides financial assistance to individual Tribes for oversight. For example, through a \$1.6 million grant to the Shoshone-Bannock Tribes, resources are provided for the review of documents from the Idaho National Engineering Laboratory and participation in stakeholder forums. This allows the Tribes to be informed of the direction and progress of the Environmental Management program to assure the Tribes that their health,

safety, environment, as well as cultural and natural resources are protected.

Similar grants totalling \$4.2M for FY 1995 have been awarded to Tribes in the Northwest region of the United States, who are affected by the Department of Energy at the Hanford reservation; the Yakima tribe in Washington, the Umatilla in Oregon, and the Nez Perce in Idaho. Several Pueblo tribes in New Mexico -- the Jemez, Cochiti, Santa Clara, and the San Ildefonso -- have recently entered into negotiations to establish cooperative agreements with the Department for increased involvement environmental management activities at the Los Alamos National Laboratory. Initial grants of \$100,000 have been provided to each of the tribes.

Similar grants totalling \$1.956 million have been awarded to Tribes in Richmond, WA, the Yakimas Indian Nations, the Umatilla and Nez Perce. These grants are expected to continue through fiscal year 1996.

In conclusion, the Department of Energy, is continuing to provide financial assistance and technical expertise to the Indian Tribes they pursue energy self-sufficiency and work to develop a vertically integrated energy industry of Indian reservations. Funds provided in fiscal years 1994 and 1995 are being used to support the initial stages of these efforts and with funds proposed for fiscal year 1996, the Department of Energy will continue these worthwhile partnerships.



Department of Justice

STATEMENT

OF

HERBERT BECKER

DIRECTOR,

OFFICE OF TRIBAL JUSTICE

BEFORE

THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

CONCERNING

FISCAL YEAR 1996 BUDGET REQUEST FOR
INDIAN PROGRAMS ADMINISTERED BY THE DEPARTMENT OF JUSTICE

PRESENTED ON

FEBRUARY 14, 1995

The Department of Justice appreciates the opportunity to submit testimony regarding the Department's programs in Indian Country. These programs demonstrate the Department's commitment to addressing the concerns of American Indians and Alaska Natives and to promoting tribal self-government. Central to self-government is the ability of tribes to manage their resources and protect the health and safety of their members. Recent data suggests that there are pressing safety and health problems facing tribal governments. For example, the homicide rate for Indians is between 1.3 to 1.8 times greater than that for all other races in the United States. The FBI reported nearly 1,000 investigations of child sexual abuse in FY 1993. According to one report, there are over 1,500 hazardous waste sites in Indian Country. These are alarming figures, which underscore the vital importance of the Department's continuing efforts to work with tribes to address these and other problems.

In May 1994, the Department, in conjunction with the Department of the Interior, convened the National American Indian Listening Conference in order to understand the concerns of the leaders of Indian Nations. In response to tribal concerns, the Department has shifted limited resources to where they are most needed to properly address these issues. In addition, the Department has created a new office, the Office of Tribal Justice, to promote better communication between the Department

and the tribes.

The President's FY 1996 budget request includes approximately \$23.35 million for the Department's Indian programs. In general, the Department's Indian programs do not appear as line items in the budget, therefore, the numbers provided for the 1996 budget request reflect estimated resources devoted to Indian issues.

OFFICE OF TRIBAL JUSTICE

On January 30, 1995, the Department announced the creation of the Office of Tribal Justice (OTJ) within the Office of the Deputy Attorney General. The mission of the Office of Tribal Justice is threefold:

- to promote internal uniformity of Department policies and litigation positions relating to Indian Country;
- to provide a point of contact within the Department to listen to the concerns of Indian tribes and other parties interested in Indian affairs and to communicate the Department's policies to the tribes and the public; and
- to coordinate federal Indian policy with other federal

agencies that have a role in Indian Country.

OTJ will enable existing Department programs to operate more effectively and lead to better service to Indian tribes and Indian people.

OTJ is staffed by non-reimbursable detailee positions from other components within the Department that have expertise in Indian issues. The costs of operating OTJ are borne by the contributing components. This innovative approach represents a another step toward the goal of reinventing government.

ENVIRONMENT AND NATURAL RESOURCES DIVISION

The Environment and Natural Resources Division through its Indian Resources Section works closely with the Department of the Interior to carry out the United States' trust responsibility toward Indian tribes. With Interior, a priority of the Division is the protection of tribal lands and resources; these efforts assist in establishing tribal sovereignty and facilitate jobs and economic development based on tribal resources. The work of the Division includes the securing -- through court proceedings and settlements -- of rights to land, water rights, and hunting and fishing rights, as established in treaties, statutes, and Executive Orders. For example, with the Department of the Interior, the Division participates in adjudications involving

Indian water rights. The Division is placing an emphasis on settlement and alternative dispute resolution in these cases.

A second focus is on pollution on tribal lands. The Indian Resources Section, in conjunction with the Environmental Enforcement Section, and client agencies the Department of the Interior, Environmental Protection Agency, Indian Health Service, and other agencies, is developing actions to assure that pollution on tribal lands is addressed so that the health and safety of the tribes is adequately protected and that members of Indian tribes receive the same protections against pollution and other health hazards as are provided to other Americans.

The President's FY 1996 budget request includes approximately \$2.53 million for that Section's Indian programs.

UNITED STATES ATTORNEYS' OFFICES AND THE CRIMINAL DIVISION

Crime extracts a tremendous price from our Nation's communities. Indian communities have paid particularly high costs both in terms of broken lives and in dollars. The United States Attorneys' Offices and the Criminal Division -- in conjunction with the Federal Bureau of Investigation, the Bureau of Indian Affairs (BIA), and the tribes -- are working to address the unique problems of combatting crime in Indian Country.

Much of Indian Country is governed by federal criminal law. The United States Attorneys' Offices are responsible for most of the criminal prosecutions in Indian Country, and are therefore the face of the Department in Indian Country. During 1994 and 1995 those United States Attorneys' Offices with significant Indian jurisdiction have focused on how to provide better service to the Native American population. A number of offices have received additional resources and many offices have devoted more of their existing resources to this end, particularly to combat child abuse in Indian Country. In 1995, 26 additional Assistant United States Attorney positions have been provided to those Districts with significant amounts of Indian Country within their districts.

In order to address crime in Indian Country, the United States Attorneys consider it critical to leverage resources by developing working groups with both tribal and state governments. Many Offices with Indian jurisdiction have established formal tribal liaison positions in order to develop better working relations with tribes.

To be effective in reducing crime, increased prosecutorial resources must be mirrored by an increase in law enforcement personnel. During the 1995 and 1996, the United States Attorneys hope to encourage the further development of tribal police and law enforcement programs and to encourage aggressive cross-

designation of tribal police with BIA and other appropriate policing authorities.

The problems involving the scope of federal, state, and tribal jurisdiction present a barrier to effective law enforcement in Indian Country. Some Offices have worked with federal, tribal, and state agencies to develop memoranda of understanding (MOU) to address problems caused by overlapping jurisdictions. For example, in 1994, the tribes and United States Attorneys Offices in Oklahoma worked with the FBI, BIA, the Indian Health Service, and the state to develop an MOU to guide the investigation, reporting, and prosecution of physical and sexual abuse of Indian children. Several United States Attorneys' Offices are exploring the possibility of MOUs with tribes.

The Criminal Division provides litigation support and legal advice to enhance these efforts of United States Attorneys. This is exemplified by their close working relationship on tribal gaming enforcement issues. On a regular and continuing basis, United States Attorneys consult with the Office of Assistant Attorney General for the Criminal Division to implement the Department's policy of peacefully terminating non-compact or otherwise illegal gaming within a brief but reasonable time.

On issues of child protection, the Child Exploitation and

Obscenity Section (CEOS) of the Criminal Division enhances, through its expertise and human resources, the efforts of United States Attorneys. CEOS is a litigation section staffed by attorneys with backgrounds and expertise in child protection issues and the prosecution of child exploitation cases. Since November 1994, CEOS has hired seven attorneys with extensive expertise in child sexual abuse and Indian Country issues. CEOS attorneys, in addition to litigating cases and providing litigation support, also have experience in establishing multidisciplinary teams under 18 U.S.C. § 3509 and in drafting and establishing memoranda of understanding concerning child protection.

The President's FY 1996 budget request includes approximately \$776,000 for Indian matters handled by the Criminal Division.

FEDERAL BUREAU OF INVESTIGATION

The Federal Bureau of Investigation (FBI) and the BIA work together to enforce federal law on approximately 168 reservations. In 1995, 27 additional agents will be assigned to supplement the agents currently conducting investigations in Indian Country, bringing the total to 124 agents with investigatory responsibilities in Indian Country.

Because of the complex jurisdictional issues and the expanse of Indian Country, the FBI has begun to work with tribes to develop cooperative law enforcement efforts. These efforts include the initiation of Operation Safe Trails in cooperation with the Navajo Nation's Department of Law Enforcement. This program, which is designed to address major crime and sexual abuse in Indian Country, is staffed by a task force of FBI Special Agents and Navajo Nation Police Officers. FBI field offices in other areas are exploring the possibility of implementing Safe Trails programs. In addition, in 1994, the FBI developed pilot programs to train tribal police in FBI facilities. The FBI plans to expand its programs and training efforts in FY 1996 to include regional training programs for tribal police officers.

The President's FY 1996 budget request includes approximately \$12.84 million for the FBI's Indian programs.

OFFICE OF POLICY DEVELOPMENT

Tribal self-governance is predicated on the ability of a tribal government to establish, maintain, and enforce the laws that govern Indian lands. Tribal courts, therefore, are critical to effective law enforcement in Indian Country. The Office of Policy Development has initiated the Department's Tribal Courts Project. The goal of the project is to assist tribes in

developing and strengthening their systems of justice.

The President's FY 1996 budget request includes approximately \$51,000 to initiate the Tribal Court Project.

CIVIL RIGHTS DIVISION

The Civil Rights Division has the primary federal responsibility to protect the civil rights of American Indians. All of the traditional civil rights statutes that are enforced by this Department (e.g., voting, housing, employment, credit, and education) apply to Indians as a protected racial minority. The Department also prosecutes hate crimes committed against Indians and the use of excessive force by law enforcement authorities against Indians.

The Department has had success in recent years in suits to protect the voting rights of Indians, in the areas of lending and housing discrimination against Indians, and the prosecution of hate crimes committed against Indians. In addition, in 1994, the Division filed cases alleging discrimination against American Indians in the provision of educational services.

Although the Division does not have a program that specifically addresses discrimination against American Indians, in 1995 the Division established a coordinator for Indian issues.

COMMUNITY RELATIONS SERVICE

The Community Relations Service (CRS) assists communities in resolving disputes based on allegations of race, color or national origin discrimination. On numerous occasions in 1994, CRS provided conciliation and mediation services to communities in Indian Country. Over the past few years CRS has been asked to mediate disputes over the scope of tribal hunting and fishing rights, issues of the jurisdiction of tribal and state police, disputes over the preservation of Indian artifacts and sacred sites, and intra-tribal election disputes. CRS plans to continue to make its services available to tribes in FY 1995 and 1996.

The President's FY 1996 budget request includes approximately \$265,000 for CRS to offer its services to mediate disputes in Indian Country.

COMMUNITY ORIENTED POLICING SERVICES

The Community Oriented Policing Services (COPS) program was established under the Violent Crime Control and Law Enforcement Act of 1994. COPS is committed to helping Indian tribes control crime by helping them hire more police officers and expand their law enforcement capacity. In FY 1995, 128 tribes have received over \$9 million in funding from police hiring grants. The COPS program will most likely continue to provide similar support for

the hiring of tribal police in FY 1996.

OFFICE OF JUSTICE PROGRAMS

Bureau of Justice Assistance

The Edward Byrne Memorial State and Local Law Enforcement Assistance Program, administered by the Bureau of Justice Assistance (BJA), provides formula grants to states to assist state and local criminal justice systems. Tribes are eligible to receive funding from the states under this program. In addition to Byrne formula funding to tribes through state grants, BJA tentatively has planned to provide the following awards from discretionary funds: planning grants to three reservations for the establishment of a comprehensive plan to reduce crime, domestic violence, and drug/alcohol abuse; funding for the improvement of tribal court systems, including the possible establishment of a pilot program to increase the effectiveness of prosecutions of child sexual and physical abuse; and support for training and technical assistance for programs in Indian Country offered by the Office of Victims of Crimes and Bureau of Indian Affairs Law Enforcement. In addition, BJA will work with the Boys and Girls Clubs of America to explore the feasibility of establishing sites in Indian Country.

Violence Against Women Act Grants

For FY 1995, the Violence Against Women Act authorized and appropriated \$26 million for a grants program to combat violent crime against women. These law enforcement and prosecution block grants to the states are designed to develop and strengthen effective law enforcement strategies to combat violent crimes against women and strengthen victim services in cases involving violence against women. Indian tribal governments are eligible to receive grants from the states under this program.

In addition, the Act stipulates that 4% of the appropriated funds, \$1.04 million, must be reserved for direct grants to tribal governments. The Office of Justice Programs anticipates awarding 15-20 grants to Indian tribes through this discretionary program in FY 1995. The President's FY 1996 budget request includes approximately \$5.15 million for direct grants to tribal governments.

Office of Victims of Crimes

The Office of Victims of Crime (OVC) works with federal, state, and tribal authorities to support programs to compensate and assist victims of crimes. OVC has initiated several programs to directly address the needs of crime victims in Indian Country. Through the Assistance for Victims of Federal Crime in Indian

Country program, OVC establishes victim assistance programs on reservations. In FY 1994, this program awarded grants totalling \$765,000 for the needs of Indian Country. OVC expects to continue to award grants under this program in 1995, and, if funded, in FY 1996.

OVC's Children's Justice Act Grant Program for Native Americans makes funds available to Indian tribes and organizations to improve the handling of child sexual abuse cases. The FY 1996 budget request includes \$1.5 million for this program.

In addition, OVC offers training for tribal, state, and federal law enforcement officers, prosecutors, and social service and mental health staff through the biennial Indian Nations Conference.

CONCLUSION

Thank you for the opportunity to address the Department's programs in Indian Country and to present the President's FY 1996 budget request for the Department's Indian Programs. The Department looks forward to working with the Senate Committee on Indian Affairs to address the problems of Indian tribes and individual Indians.

STATEMENT
BOB NASH, UNDER SECRETARY FOR
RURAL ECONOMIC AND COMMUNITY DEVELOPMENT
DEPARTMENT OF AGRICULTURE
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITES STATES SENATE
February 14, 1995

Mr. Chairman, members of the Committee, I am pleased to present to you a report on the President's proposed Fiscal Year 1996 Budget as it relates to Indian programs administered by the United States Department of Agriculture. Acting Secretary Richard Rominger asked me to present the Department's report.

Mr. Chairman, during my confirmation hearing in 1993, I made a pledge to meet this Administration's commitment to work closely with American Indians and Alaska Natives to improve the delivery of Rural Economic and Community Development (RECD) services to Indians. I have followed through on that commitment - that is the first point I want to make.

First, RECD intensified its outreach to Indian Country. In April 1994, we appointed Francis Harjo, a Paiute-Shoshone Indian as RECD's American Indian and Alaska Native Coordinator. Mr. Harjo previously served as Executive Director of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing. Mr. Harjo's outreach and knowledge of Indian communities is helping RECD identify and remove barriers that impede the delivery of housing and community development programs to Indian areas.

Second, in 1994, then-Farmers Home Administrator Michael V. Dunn and Acting Rural Development Administrator Wibur Peer visited Alaska to ascertain the housing and water and sewer needs of a number of Native Villages.

As a result of that visit, RECD contracted Red Hawk Laboratories, an American Indian owned (8a) firm to begin an assessment of the impediments in the development of water and sewer and sanitation facilities in rural Alaska Native Villages.

This report; which will be ready in June 1995, will make recommendations to facilitate comprehensive changes in existing federal programs including those of the Rural Utility Service, Indian Health Service, Department of Health and Human Services, Department of Housing and Urban Development and Environmental Protection Agency, to improve the delivery of water and sewer services for rural Alaska.

Third, in 1995, RECD and the HUD Office of American Indian and Alaska Native Programs are initiating, "Indian Homeownership: THE FIRST GENERATION". This initiative will allow the agencies to identify and eliminate barriers that stand between homeownership for too many American Indians and Alaska Natives.

This historical initiative, for the first time, will bring together the federal agencies involved with housing and related issues, with an extensive demonstration component to educate private lenders, individuals and their families, Tribal governments, housing authorities, planners, and other interested organizations as well as participating state and local agencies about the programs available for Indian homeownership.

Finally, the Department is very concerned for the lack of accessible private credit for Indian reservations which is proving to be one of the biggest barriers for agriculture, economic development, and housing. Therefore, the Department and other federal agencies are developing legislation that would create a American Indian and Alaska Native Finance Service Organization (NAFSO). Once implemented, NAFSO will accelerate Indian reservation economies by providing a means to lend money at the local level and provide access to the secondary lending market. NAFSO would assist the Community Development Financial Institution Fund in creating Native American financial services to Native Americans. NAFSO would also provide ongoing assistance to the existing secondary market for Native American residential mortgages and economic development loans.

Now I want to describe the steps the Administration will take to improve the lives of Native Americans and improve their ability to take advantage of a growing, expanding economy.

Food Distribution Program on Indian Reservations

The Food Distribution Program on Indian Reservations (FDPIR) was established under the Food Stamp Act of 1977 as a commodity alternative to food stamps for needy households residing on Indian reservations and for needy Indian households residing in designated areas near reservations, where food stamp offices may not be reasonably accessible and where grocery stores may be inconveniently located and/or have extremely high prices.

FDPIR provides eligible households monthly food packages consisting of offerings of more than 60 commodities from all food groups. Unlike food stamps, the food package is not adjusted according to the recipient's income level. To determine recipient eligibility, FDPIR uses the Food Stamp Program's net monthly income standards, increased by the food stamp standard deduction.

FDPIR is currently administered by 91 Indian tribal organizations (ITOs) and 6 State agencies on 244 reservations. Program participation in FY 1994 was approximately 113,000 individuals per month. The President has requested \$71,300,000 for this program in FY 1996, an increase of \$1.6 million from current levels.

Given the high incidence of diet-related health conditions in the American Indian and Alaska Native population, in the past several years increased emphasis has been placed on nutrition and nutrition education in FDPIR. Changes have been made in the food package to reduce the overall levels of fat and sodium. In addition, frozen ground beef and convenience foods such as bakery mix and macaroni and cheese have been added.

In the area of nutrition education, beginning this fiscal year, new nutrition labels will appear on the commodities. In addition, USDA developed a series of 12 nutrition and health fact sheets, issued monthly with the FDPIR food package, which provide basic lessons about health and nutrition issues of relevance to the American Indian and Alaska Native population. To assist recipients in applying the nutritional advice and to promote the healthy use of the USDA commodities provided through FDPIR, each fact sheet includes recipes appropriate to the topic it addresses.

Since FY 1993, funds have been specifically budgeted for nutrition education in annual appropriations. In FY 1993, \$135,000 and in FY 1994, \$150,000 were provided through a competitive process directly to ITOs to support nutrition education projects on their reservations, or used to purchase materials and services on behalf of the ITOs. In FY 1996, as in FY 1995, \$1 million has been earmarked for nutrition education.

These funds are being used specifically to hire and train American Indian and Alaska Native nutrition aides, who will make home visits, conduct cooking demonstration, and provide other nutrition education services as appropriate to program participants.

EXTENSION INDIAN RESERVATION PROGRAM

In FY 1996, the Administration is requesting \$1.75 million to continue Extension programs on Indian reservations. Current funding supports programs on Indian Reservations in 20 states (AK, AZ, CA, FL, ID, MN, MS, MT, NE, NV, NM, NY, ND, NC, OK, OR, SC, TX, WA and WY).

The appropriated funds provide agricultural, youth development, and nutrition education programs to American Indian and Alaska Natives and are used in a variety of ways.

For example, in Arizona, there are programs with the Colorado River Indian Tribes, the Tri-State Navajo Nation, and the San Carlos Apache Indian Reservation.

The Colorado River Indian Tribes program focuses on efficient water use and quality, new crops, management, and marketing.

The Tri-State (AZ, NM, UT) Navajo Nation project is an agriculture and 4-H youth program targeted to agricultural producers so that they may increase profitability of their farm and ranch units, and to youth for their development into productive citizens.

The San Carlos Apache program was developed with the input and support from the Southwest Indian Agriculture Association. Its objectives are to assist producers in increasing their profitability and to help develop and increase individual and tribal self-sufficiency.

NATIVE AMERICAN "1994 INSTITUTIONS" ENDOWMENT FUND

The President's budget requests \$4,600,000 in new funding for the American Indian and Alaska Native "1994 Institutions" Endowment Fund as part of this commitment to improving educational opportunities for all Americans. This will provide the first installment to establish an endowment for the 29 tribally controlled 1994 land-grant institutions, as designated in Public Law 103-382. It will be the foundation of USDA efforts to better serve the rural communities in which these tribal colleges are located and to better prepare Indians for professional careers in agriscience and agribusiness.

American Indians earn less than 1 percent of all baccalaureate degrees in the food and agricultural sciences. Therefore, it is not surprising that the food and agricultural system has almost no American Indians in scientific and professional leadership roles. Developing USDA partnerships with institutions that serve American Indian students is one key to solving this problem.

This new USDA land-grant program is proposed to strengthen undergraduate programs in the food and agricultural sciences at tribal colleges. It will capitalize on the momentum of USDA's growing commitment to mobilize minority talent for American agriculture. It will enable eligible institutions to undertake broader collaborative efforts with other institutions, particularly other land-grant institutions, and private sector entities to launch special student recruitment efforts, enhance curricula offerings, update and expand faculty expertise, and implement innovative instructional delivery systems.

By strengthening the infrastructure of these institutions, the Department can play a vital role in the development of Indian expertise in food and agricultural science and business as well as the development of their own communities. The funding proposed by the President will be the beginning of a five-year program of endowment development for these 29 institutions that will result in a \$23 million program in five years.

On the termination of each fiscal year, the Secretary of the Treasury will withdraw the income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows. Sixty percent of the adjusted income from these funds will be distributed among the 1994 Institutions on a pro rata basis, the proportionate share being based on the Indian student count. Forty percent of the adjusted income will be distributed in equal shares to the 1994 Institutions.

The Treasury Department will manage the program, seeing that funds generated on the endowment each year are distributed as indicated to the 29 institutions. Under this program, the Secretary of Agriculture will make two or more institutional capacity building grants to assist 1994 institutions with acquiring, constructing, and remodeling buildings, laboratories, and other capital facilities necessary to conduct instructional activities more effectively in agriculture and sciences.

Further, these institutions will be linked to other land-grant institutions, as well as non-land-grant institutions with teaching activities in the food and agricultural sciences, by incorporating their faculty into ongoing teaching workshops, peer-review panels, and other education-founded events co-sponsored by USDA and other Federal agencies.

CONSERVATION TECHNICAL ASSISTANCE TO INDIAN RESERVATIONS

My final point is about the commitment we have to conserve our natural resources. The President has requested an increase in FY 1996 of \$1,000,000 from FY 1995 levels for the Natural Resources Conservation Service (NRCS) to provide technical assistance to Indian Reservations required under Section 2501(g) of the 1990 Food, Agriculture, Conservation, and Trade Act (the 1990 Act).

The Indian Self-Determination and Education Assistance Act, Public Law 93-638, approved January 4, 1975, gave authority for carrying out the trust responsibilities of the U.S. Government to all government agencies, not just the Bureau of Indian Affairs. Section 2501(g) of the 1990 Act further defined the responsibilities for USDA.

Prior to the enactment of the 1990 Act, NRCS was providing 18 staff years of assistance on 9 reservations. At other reservations, technical assistance was available, if requested, but usually from a town some distance from the reservation.

Currently, many of the more than 310 reservations and 4 areas of trust land in the 48 contiguous states are taking steps to request assistance. The reservations encompass a land area of over 56 million acres. There are also 12 Alaska Native Regional corporations and 217 Alaska Native Villages that are entitled to receive benefits. Potentially all of them could request staff assistance under the provisions of section 2501(g) of the 1990 Act.

NRCS examined new ways to use existing staff to carry out this assistance. Based on the latest information, it is estimated that the annual rate of requests to staff tribal land field offices will be about 150. The staff are needed to provide basic conservation technical assistance for natural resource problem identification and conservation planning and application. The 1990 Act establishes a minimum of 1 day per week of assistance on tribal lands if requested.

However, operating in this manner is inefficient because travel time to the more remote reservations requires up to two additional days per week, and it does not help develop tribal capacity to solve conservation problems. Without the additional allocation, complying with the provision will substantially affect efficiency and disrupt service provision at existing offices. These new office sites will be co-located with Consolidated Farm Service Agency (CFSA) offices whenever possible on reservation lands.

The FY 1996 Budget request represents the annual cost of providing technical assistance and capacity building needed to carry out field suboffice operations on a full-time basis on 16 additional reservations which have significant natural resource problems.

The 16 professionals assigned full-time to the reservations will provide the leadership to begin the process of developing the local capacity in natural resources conservation by establishing an internship/self reliance apprenticeship program similar to the one in operation at the Wind River Reservation in Wyoming. Tribal employees would be trained through on-the-job and educational experiences as a conservation workforce on the reservations.

Mr. Chairman, this concludes my statement. Thank you for allowing me the opportunity to present to you a report on the President's proposed FY 1996 budget as it relates to Indian programs administered by the United States Department of Agriculture.

American
Dental
Association



211 East Chicago Avenue
Chicago, Illinois 60611-2678
312-140-2500
Fax (312) 440-7494

February 20, 1995

The Honorable John McCain
Chairman
Committee on Indian Affairs
SH-838 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman McCain:

The American Dental Association (ADA) is pleased that you are holding hearings on February 14 and 16, 1995 on the President's FY 1996 budget request for federal Indian programs. The Association has been a long-time supporter of the Indian Health Service (IHS) dental program and is concerned about the Administration's recommendations to reduce full-time employees (FTEs) and inadequate salary rates.

The Administration is proposing that the IHS staffing level be reduced by 2% from the FY 1993 level. While this level is 3% percent below what the rest of the Health and Human Services Department will lose it is still unacceptable. Any reduction in FTEs will have a negative effect on IHS dental services and decrease dental care for Native Americans.

The IHS position ceiling has been established at 15,195. Staff for newly constructed facilities must be absorbed from within this ceiling. The ceiling has resulted in new facilities which are not appropriately staffed. While a hiring freeze has not been imposed on clinical positions, local decision makers have been forced to curtail hiring of clinical staff (dentists, hygienists, dental assistants) to meet local position ceilings. This has resulted in the IHS dental program not being able to replace 40-50 people at three new facilities. These restrictive hiring practices were potentially a major factor in the decrease in the number of persons receiving dental care in FY 1994 as compared to FY 1993. Four thousand fewer patients were treated in FY 1994 than the previous year.

In an attempt to meet the FTE ceiling imposed since 1993, IHS has been operating under a hiring freeze for non-clinical positions since the end of FY 1993. This has resulted in the loss of 11 professional support staff positions for the dental

The Honorable John McCain
March 20, 1995
Page 2

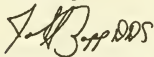
program. These staff members were responsible for establishing and maintaining fluoridation and dental sealant programs both of which reduce the need for dental care.

These lost positions represent significant reductions in training and technical assistance in public health management, health promotion/disease prevention, information systems management, recruiting and applied research. Consequently, the IHS mode of oral health care delivery, which has been highly effective, is being rapidly eroded. This will ultimately result in poorer oral health for Native American people. The Native Americans already suffer from a higher oral disease rate than other populations and reductions in care will only increase that figure.

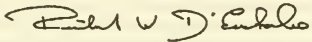
The Association appreciates the financial constraints that Congress is operating under and recognizes that there will be reductions in federal programs. However, the ADA believes that budget reductions and policy changes should not be adopted if they will adversely impact on the delivery of quality dental care to Native Americans. Currently, 33% of the Indian people have access to oral health care annually compared to about 60% of the U.S. population at large. We hope that the Indian Affairs Committee will oppose FY 1996 budget proposals which will result in widening the gap in dental care between Native Americans and the rest of the population.

Thank you for considering our comments. The Association would appreciate it if you would include our comments in the official hearing record.

Sincerely,

Handwritten signature of John S. Zapp in dark ink.

John S. Zapp, D.D.S.
Executive Director

Handwritten signature of Richard W. D'Eustachio in dark ink.

Richard W. D'Eustachio, D.D.S.
President

Report to the Committee on Indian Affairs

Department of Transportation Federal Highway Administration Federal Lands Highway Organization FY 1996 - Indian Reservation Roads Program

The Indian Reservation Roads (IRR) program began as a category of the Federal Lands Highway Program (FLHP) in the 1982 Surface Transportation Assistance Act (STAA). Prior to the STAA, the IRR program was funded through the Department of Interior (DOI) appropriations. The STAA annual authorization was \$75 million ('83), \$100 million ('84 through '86). The 1987 Surface Transportation and Uniform Relocation Assistance Act reduced the authorization to \$80 million ('87 through '91). In 1992, Intermodal Surface Transportation Efficiency Act (ISTEA) raised the program from \$159 million ('92) to \$191 million ('93 through '97). The FLHP follows the same policies in the IRR program as in the Federal-Aid program. (23 USC 204(a))

The IRR allocation and program procedures operate as follows:

In each fiscal year, FHWA reserves up to 3.75 percent for FHWA administration from the \$191 million authorization. The Federal Lands Highway Office (FLHO) and BIA developed a plan for the remaining funds. This plan includes:

- Transportation Planning
- Design and Construction Activities
- Tribal Planning
- BIA Program Administration (NTE 6 percent)
- FHWA Program Oversight
- Native American Local Technical Assistance Program Centers, and
- Technology Research

The BIA Central Office distributes the remaining construction funds to their 12 Area Offices. This distribution of IRR funds to the 12 Area Offices is based on a new allocation formula. The BIA have been transitioning from an old allocation formula, based on 33 percent population, 33 percent land area, and 33 percent road mileage; to a new formula based on 20 percent population, 30 percent vehicle miles traveled (ADT x mileage), and 50 percent cost to improve (the regional cost it would take to bring the road up to a given standard). A four year transition period was used. Fiscal year 1996 will be the first year under the new formula.

From the original \$191 million, approximately \$183 million is transferred to the BIA. The BIA Central Office reserves up to 6 percent for administration and national programs and allocates the remaining funds to their Area Offices. It is estimated that \$175 million will be allocated to the Area Offices during FY 96. The approximate distribution, based on the allocation is shown in the table on the following page. The allocations to the Area Offices is applied to program administration, tribal planning and highway design and construction.

The FHWA also participates in the funding of the Intertribal Transportation Association (ITA). The ITA's vision is to represent the interests of the Native Americans in transportation issues that come before Congress, the BIA, and FHWA. They also act as a liaison between tribes, and between tribes and the FHWA. The Administration for Native Americans (ANA) transferred \$200,000 to FHWA. Using these funds, FHWA developed a startup grant for the ITA. During the next several years, both the ANA and FHWA have agreed to fund (\$200,000 per agency) this organization. In 1995, the FHWA will be entering into a contract with the ITA to accomplish a tribal survey on FHWA/BIA administration of the IRR program.

TABLE 1

FY 1996 IRR Allocation		
Area Office	Percent By Area	Construction \$Million
Aberdeen	7.86	13.8
Anadarko	2.77	4.8
Billings	6.99	12.2
Juneau	10.41	18.2
Minneapolis	3.64	6.4
Muskogee	8.35	14.6
Phoenix	8.52	14.9
Sacramento	2.31	4.1
Albuquerque	8.69	15.2
Navajo	32.67	57.2
Portland	5.91	10.3
Eastern	1.88	3.3
TOTAL	100.00	175.0

At the BIA Area level, tribes develop and submit a priority list of projects to the Area office accompanied with the tribal council's letter of approval (resolution). The BIA Area office gathers all these projects lists and divides the funding in a variety of ways. Some Areas try to ensure that each tribe gets at least one project every year, others work from the allocation formula on a tribal basis, and others consider the 6-year length of ISTEA and work to ensure that each tribe gets its fair share.

There are approximately 544 federally recognized tribes located in 32 States. Mostly, the IRR funds are spent repairing and replacing the 25,000 miles of BIA and tribal owned roads. Through agreements with the States and counties, joint projects on some of the other 27,000 miles are also occurring.

JOHN MCCAIN, ARIZONA, CHAIRMAN
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PATRICIA M. ZEUL, MINORITY DIRECTOR/COUNSEL

United States Senate

COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, DC 20510-8450

February 23, 1995

The Honorable Carol Browner
Administrator
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Administrator Browner:

Thank you for providing witnesses to give testimony before our Committee on February 16th on the EPA's FY96 budget request and its impact on Indians and Alaska Natives.

What follows are questions to which we ask you to provide written answers. Since the Committee must provide its views and estimates to the Budget Committee in the near future, we ask that you provide your written responses by March 2, 1995 so that they can be considered by the Committee and included in the record of this hearing.

1. Last year this Committee expanded the Self-Governance option for Tribes within the Interior Department. Your FY96 budget proposal promises that EPA will "expand and improve its program delivery to tribal governments" and "develop government-to-government relations with tribes in fulfillment of its trust responsibilities." What tangible steps will EPA take in FY96 to meet the goal of improved government-to-government relations with Tribes? And, when might EPA be ready to deal with tribal governments under expanded Self-Governance authorities?

2. Last year, EPA regulatory requirements concerning solid waste and land-fill operations required Tribes and other local governments to comply with costly unfunded mandates. What technical assistance resources did EPA provide in FY95 for developing, enforcing, and implementing these requirements throughout the nation, and of this amount, how much was allocated to Indian Tribes? What changes do you propose in FY96?

3. The FY96 budget request indicates EPA will seek new authority to move Clean Water grants into "performance partnership grants" in order to provide Tribes with greater flexibility. When will you offer your proposal and what are some examples of the obstacles to flexible tribal administration that these new grants will remove?

The Honorable Carol M. Browner
February 23, 1995
Page 2

4. The budget request indicates EPA is encouraging economic redevelopment of remediated hazardous waste sites by directing resources towards core cooperative agreements with Tribes. What EPA resources are being provided for this in FY95, and how much is requested for this purpose in FY96?

5. The FY96 budget proposal reports that "resources were redirected from Headquarters to Regions to support tribal activities." What resources were redirected, and when, and what tribal activities were supported?

6. As we noted at the hearing, we are pleased to see that the Administration has requested the full amount authorized for the General Assistance Grant program to Tribes. As the principal sponsors of this program, we are well aware that the annual authorization ceiling is too low to adequately address the needs of Indian Country. Does the Administration agree that the authorization ceiling of \$15 million should be raised? To your knowledge, are there any barriers to EPA reprogramming additional funds into this account should needs arise? More specifically, cannot EPA provide additional "multi-media assistance" to Tribes outside the authorities of the Indian Environmental General Assistance Act?

7. What is the total amount of funds made available to Tribes in FY95 for Water Quality grants? How much do you request be allocated to Tribes in FY96?

8. In dollars, how much is EPA proposing to decrease Water Quality research in FY96 and how will this affect Indians and Alaska Natives?

9. What Drinking Water efforts have assisted Tribes in FY95 and describe any change proposed for FY96? In particular, in what ways do Tribes benefit from EPA's focus on supporting small drinking water systems?

10. In the area of Hazardous Waste, what technical assistance efforts have directly benefitted Tribes in FY95 and describe any changes proposed in FY96?

11. Of the \$108.7 million requested for hazardous waste and underground storage tank corrective programs, how much of these funds will be allocated to Tribes in FY96? How much did Tribes receive in FY95 for these purposes?

12. EPA's FY96 budget proposal promises that some of the EPA Office of General Counsel's "278 workyears" will be redirected toward tribal law issues. How many workyears will be devoted to this purpose in FY95, and how much will this increase in FY96? Please describe in detail the tribal law issues which were the subject of OGC attention in FY95 and what tribal law issues will be the subject of the additional 278 workyears in FY96?

The Honorable Carol M. Browner
February 23, 1995
Page 3

13. The budget proposal indicates that EPA will increase resources for cooperative agreements with Tribes to enable them to address superfund sites that might be otherwise delayed as higher-risk sites are cleaned up. How much has EPA dedicated to this effort in FY95, and how much will this be increased in FY96?

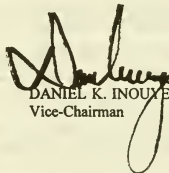
14. Underground storage tanks are a ticking time bomb on many Indian Reservations. What is the total amount of funds granted to Tribes for compliance assistance activities in FY95, and how much is proposed for FY96?

15. The Committee has been informed that EPA is currently working on a matrix that will identify the resources which have been expended by the agency for Indian programs by media area and by region. Please provide this Committee with a breakdown of what EPA has expended in FY94 and FY95 for Indian programs by media area and by region? This breakdown should include a separate accounting for those funds and resources that have been provided directly to Indian tribal governments and those that have been utilized by EPA in the direct implementation of environmental programs. Similarly, what is the projected breakdown for FY96?

We are also enclosing questions submitted by two Members of this Committee, Senators Gorton and Campbell, and ask that you provide them and the Committee with a timely and full response to their questions. Thank you for your consideration of these requests.

Sincerely,


JOHN McCAIN
Chairman


DANIEL K. INOUE
Vice-Chairman

Enclosures

Questions for each Administration Witness
Senate Indian Affairs Committee Hearing
February 14, 1995
submitted by Senator Slade Gorton

[1] In this year's budget request for Native Americans, does the Executive Branch propose to reduce payments, or benefits to Indian tribes, tribal organizations and individuals to offset tribal income or individual employment income from treaty or otherwise protected activities, such as gambling or fishing? As just one example, does the Administration propose reducing assistance to a tribe or group of tribes to reflect the amount of money they and their members earn from owning and operating Class III gaming establishments?

[2] If so:

- (a) what specific programs or payments are subject, or not subject to being reduced?
- (b) how is the amount of reduction determined? by formula? what is that formula?
- (c) how is this reduction reflected in this year's Administration budget request? Please be specific.

[3] If not:

- (a) why not?
- (b) is it not possible or desirable to determine a specific formula for reducing funding to offset income derived from protected activities?
- (c) are there any legal or legislative barriers to making such a reduction in federal payments?

Slade Gorton

BEN NIGHTHORSE CAMPBELL
COLORADO

United States Senate

WASHINGTON, DC 20510-0805

February 23, 1995

The Honorable John McCain
Chairman
Senate Committee on Indian Affairs
Hart 838
Washington, D.C. 20510

Dear John:

I want to thank you for conducting the budget oversight hearings last week. As the committee begins to develop its' budget recommendations for FY' 96 I would like to request the following questions be submitted for inclusion in the hearing record and for purposes of soliciting responses from the Environmental Protection Agency.

I understand you have established timelines for agency response to written questions prepared by members of the committee. It is my hope the EPA will respond promptly to my inquiries, as they are important to the two Ute tribes in my home state of Colorado.

Please find attached, questions addressed to the EPA designate, Robert Perciasepe, Assistant Administrator, Office of Water.

If you have any questions, please do not hesitate to contact my staff person Gary Bohnee @ 224-5852.

With warm regards, I am

Sincerely,


Ben Nighthorse Campbell
U.S. Senator

BNC/gb
enc.

1128 PENNSYLVANIA STREET
DENVER, CO 80203
303/866-1900

19 OLD TOWN SQUARE
SUITE 239 #33
FT COLLINS, CO 80524
303/224-1909

743 HORIZON CT
SUITE 369
GRAND JUNCTION, CO 81506
303/241-4831

105 E VERMILIO
SUITE 800
COLORADO SPRINGS, CO 80903
719/638-9092

836 E 2nd AVENUE
SUITE 226
OURANGO, CO 81301
303/247-1809

720 N MAIN STREET
SUITE 402
PUEBLO, CO 81003
719/542-6987

PRINTED ON RECYCLED PAPER

To EPA designate, Robert Perciasepe, Assistant Administrator, Office of Water.

As you may be aware, I have been integrally involved in the implementation of the Colorado Ute Indian Water Rights Settlement Act of 1988 (P.L. 100-585). The settlement provides the Colorado Ute tribes with water which had long been denied them, while at the same time preserving the ability of the non-Indian community to use the water on which it had relied for generations.

A key component of the settlement is the timely construction of the Animas-La Plata Project, a federal reclamation project authorized in 1968. Currently, the Bureau of Reclamation (BOR) is in the process of completing National Environmental Policy Act (NEPA) and other environmental compliance requirements for the Animas-La Plata project.

The BOR intends to file the final supplement to the environmental statement to your agency in August of this year.

I wanted to bring this item to your attention because the EPA will have a role in upholding the federal trust responsibility to Indian tribes in implementing various Indian related settlements.

1. In this regard what is your view of the EPA's trust responsibility to Indian tribes in implementing settlements such as the Colorado Ute Indian Water Rights Settlement? In the evaluation and review of environmental documents that directly relate to Indian settlements?

2. With regard to the Animas-La Plata Project, the Bureau of Reclamation has committed sufficient resources to complete its' environmental work in compliance with timelines set forth in the Settlement Act. What steps, if any, is the EPA taking to ensure that BOR environmental activities will satisfy National Environmental Policy Act, Clean Water Act, Endangered Species Act and other regulatory requirements?

3. It is my understanding the EPA recently adopted the Indian Health Service regulations that pertain to "Project Selection Criteria". A limitation of the current IHS project selection criteria is that they give deference to immediate health problems and sanitation deficiencies. Projects which do not exhibit a critical current health factor do not score well. Has the EPA given any consideration to the limitations of the IHS regulations and/or considered any flexible alternatives that may take into account not only current problems, but also give merit to projects that are proactive?

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United States Senate

COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, DC 20510-8450

February 14, 1995

The Honorable Ada Deer
Assistant Secretary for
Indian Affairs
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Assistant Secretary Deer:

Thank you for providing testimony before the Committee on February 14th on the BIA's FY96 budget request and its impact on Indians and Alaska Natives.

What follows are questions to which we ask you to provide written answers. Since the Committee must provide its views and estimates to the Budget Committee by March 1, we ask that you provide your written responses by February 22, 1995 so that they can be considered by the Committee and included in the record of this hearing.

1. Last year this Committee led Congress to amend the law to expand tribal opportunities to take over BIA functions under Self-Determination contracts and Self-Governance compacts. (a) Do you expect an expansion in FY96 of these tribal assumptions of BIA activities? (b) How many additional Tribes will BIA negotiate compacts with in FY95 and FY96? And (c), how much more than the current \$465 million in contracts and compacts will be transferred to Tribes in FY96?

2. Tribes tell the Committee that Contract Support Funds are absolutely essential to Tribes taking over additional BIA functions under contracts or compacts and down-sizing the BIA. Using current methods for calculating Contract Support Fund requirements, what is the total amount of contract support dollars that will be required to make these additional levels of contracting and compacting a financially viable option for Tribes? And, what portion of this total need will be met by your FY96 budget request?

3. I commend the BIA for implementing the recommendation of the Joint Task Force on Reorganization to transfer General Assistance welfare grants and Contract Support Funds to the Tribal Priority Allocations account where expenditure is more subject to the control of tribal

The Honorable Ada Deer
 February 14, 1995
 Page 2

governments. But what will happen under this arrangement if these funds run out before the end of the year? Will checks to destitute Indians simply be cut off and tribal indirect costs suddenly go unpaid?

4. I am glad to see that the BIA's FY96 request contains a strong statement of support for the Tribal Priority Allocations account. But why then has the BIA for the first time in years requested neither "general increases" nor "inflationary adjustments" funds for Tribal Priority Allocation (TPA) accounts in FY96? Is it not fair to conclude that because of inflation the BIA is requesting *less* purchasing power in the one part of the BIA budget over which Tribes do have some control while at the same time BIA is requesting \$2.5 million to relocate its Central Office? And on the BIA's growing bureaucracy -- Why is the BIA seeking to increase by \$2.1 million the \$26 million now spent on BIA Agency Office general administration while at the same time holding the total TPA to FY95 levels? Won't this mean tribal programs in TPA will be cut in order to increase the federal bureaucracy?

5. You testified that BIA's overhead is modest because "86 cents of every operating dollar goes directly to the reservations" and only 14 cents of every dollar is spent by BIA on administration. As I mentioned at the hearing, my guess is that Tribes will find that statement simply unbelievable. It appears to the Committee that you got your overhead numbers that low by claiming that BIA administers the \$465 million in contract and compact funds and \$766 in Tribal Priority Allocations that are in truth mainly administered by Tribes not the BIA. You also seem to have excluded the BIA Agency Offices from your calculation of BIA overhead. If you backed out of your calculations all contract, compact and other Tribal Priority Allocations directly administered by Tribes, would not BIA's overhead costs be closer to 50 cents on the dollar under this FY96 budget request?

6. There are two figures presented in the FY96 budget request to show that BIA is shifting its dollars to tribal control -- first, that \$766.5 million is in the Tribal Priority Allocations accounts and \$465 million is in contracts and compacts with Tribes. But these figures overlap. For FY95, how much of the \$465 million is included within the \$766.5 million figure, and what are your projections for FY96?

7. I am glad to see that the Administration finally has chosen to seek funding for the Indian Child Protection and Family Violence Prevention Act after years of no funding. As you know, we will be working closely with you to reauthorize that Act for FY96 and beyond so that the funds you seek can be spent by Tribes to implement child abuse prevention and treatment programs. Since, as your budget request notes, the regulations to implement this Act "are currently in the draft process", what assurances can you provide to the Committee that the BIA will not be faced with the same situation as in 1993 when Congress removed a \$5 million request for appropriations because the BIA's regulations were not developed? Is \$5 million sufficient

The Honorable Ada Deer
 February 14, 1995
 Page 3

to provide grants to "approximately 540 Indian tribes" as stated in the BIA budget request to develop meaningful child protection and family violence prevention programs?

8. You have requested \$9.3 million in FY96 for the cost of operating five Indian irrigation projects, maintaining two and contracting for water for nine others. Funds for these 16 projects are being requested because they have been specifically required by legislation, court order, or by contract. However, there are over 100 other Indian irrigation systems for which the budget includes no money, either for O&M or for rehabilitation construction. Who is responsible for the O&M on these 100 other irrigation systems? If not the BIA, who will fund them? Your budget requests says irrigation projects avoid costly crop failures, unnecessary major rehabilitation costs to the Federal government, deterioration of the projects, and hazards to public safety. Is the BIA saying these hazards are acceptable for the 100 projects it will not fund?

9. Of the 448 FTE reductions you are required to take for the period FY93 through FY96, how many do you propose to take in FY96 alone? How do you reconcile the fact that it appears only 3 FTEs will be taken at Central Office during FY96, when the Tribes report BIA has informed them BIA anticipates a 50% reduction in Central Office staffing?

10. From what specific expenditure accounts and activities will the proposed \$4.053 million reduction in administrative cost reductions originate in FY96?

11. From what specific expenditure accounts and activities will the proposed \$1.0 million reduction in financial management savings originate in FY96?

12. Please explain why federal employees receive more than tribal contractor employees of the nationwide regular pay and locality pay increases? Is it fair to conclude from this that either there are fewer tribal contractor employees than BIA employees, or that BIA employee compensation is higher than total tribal contractor employee compensation?

13. Please list the amounts requested for rental payments to GSA and others for the period between FY93 and FY96, along with the corresponding percentage rates of increase by year. Please also provide the total square footage of space for each such year. Why has this account grown at the same time the BIA has been reducing its workforce by a total 448 FTEs? Is it fair to conclude that fewer BIA employees are gaining more and more work space?

14. To what address or addresses is the BIA intending to relocate its Central Office operations during FY96?

15. Concerning the \$500,000 you request to transfer from the Central Office "All Other Aid to Tribal Government" account to establish the new Office of Tribal Justice Support, please

The Honorable Ada Deer
 February 14, 1995
 Page 4

describe what functions and activities formerly carried out by the All Other Aid account you propose to terminate in FY96?

16. Will you be able during FY96 to identify enough individuals and associated amounts of retroactive interest owed them so that the \$12.7 million you are requesting for FY96 can actually be reimbursed to these individuals during FY96? Please provide the Committee with an action plan showing reasonable steps and timelines to accomplish this within FY96?

17. Why are the construction costs listed as one-time costs on page BIA-229? For each such project for which no funds are requested in FY96, please identify the projected costs and plans necessary to complete them.

18. Would the proposed working capital fund divert Indian road construction dollars out of the reach of Tribes and tribal organizations desiring to contract or compact for those activities? If not, please describe how a Tribe might contract or compact for those funds?

19. This Committee is very interested in receiving a copy of the report due one year ago on level of contracting, BIA operating portions, and related staff which the FY96 request now indicates will be provided in March, 1995. Please forward to us a copy at that time. The Committee is also very interested in receiving a copy of the report on Self-Governance required by the appropriations committees and due on March 15, 1995. Please forward us a copy as soon as possible.

20. Recent data indicates that (1) more than 11% of Native Americans suffer from alcohol and substance abuse, (2) approximately 80% of Indian suicides and attempts are alcohol or drug-related, and (3) 87% of family violence is committed while the perpetrator is under the influence of alcohol. Nevertheless, in FY95 the Office of Alcohol and Substance Abuse experienced a 43% budget reduction. It appears that all of its budget has been consumed in administrative salaries and costs. With the current budget request of \$132,000, is it realistic for the BIA to meet the mandates of the Indian Alcohol and Substance Abuse Treatment Act?

21. Of the 299 FTE's listed in BIA's FTE table, how many are employed on the seven irrigation projects for which funds are requested, and to what projects are the remaining FTE's assigned?

22. The Department has supported Tribal participation in treaty-rights protection activities for many years out of the Water Rights Negotiation/Litigation account of Operation of Indian Programs. In the FY96 Budget Request, this account has been transferred to the Indian Land and Water Claim Settlement Account in order to "place all funding that supports settlement into one account." How does the Department intend to continue funding these activities including tribal participation in FERC relicensing of hydropower dams that impact tribal treaty-protected

The Honorable Ada Deer
February 14, 1995
Page 5

fisheries? Does this shift reflect a policy decision not to fund Indian tribes seeking to protect their treaty rights through negotiations rather than litigation or to only fund those projects which are on the settlement priority list?

23. The joint Tribal/BIA Reorganization Task Force Report recommends that the BIA and the Tribes examine the feasibility and desirability of shifting the education-related line items into the Tribal Priority Allocations account. Has the BIA taken any steps to being consideration of this proposal, and if so, please identify them? What are your views on this issue at this time?

24. One area that has received considerable attention, as noted at today's hearing, is the lack of adequate fire protection at many BIA schools. I note an increase in the amounts available in the fire protection line item of the BIA budget request. What will these funds be used for and where will they be spent? How much of the need for fire protection will be met by the proposed FY96 request?

Thank you for your timely consideration and response to these requests. I am also enclosing questions separately submitted by two Members of this Committee, Senators Gorton and Campbell, and ask that you provide them and this Committee with a similarly timely and full response to their questions.

Sincerely,


JOHN McCAIN
Chairman

Enclosures

Question for Assistant Secretary Ada Deer:

You are familiar with the Ute Mountain Irrigation Project, for which the Ute Mountain Ute Tribe has sought your support for the last two years.

However, you failed again in FY 96 to include any funds for this project in either the BIA irrigation construction program or the Secretary's settlement fund.

While I understand the Bureau's rationale to develop a priority system for irrigation projects, I am puzzled by your lack of support for this project, which is an integral part of the Ute Mountain Ute portion of the 1988 Colorado Ute Indian Water Rights Settlement Act. It allows the tribe to actually utilize its water from the Dolores Project on the reservation for the benefit of tribal members.

Can you explain why you did not request any funding for this project, which is about 40% complete and is well under its original budget?

Does your failure to request funding for this project signal a change in your policy of settlement of water rights issues over lengthy and expensive litigation?

If the federal government fails to follow through with funding for settlement provisions, what should motivate Tribes to negotiate rather than litigate?

Do you agree that failure to fund settlement provisions such as this on constitutes a breach of trust with the Tribe, particularly in light of the 1988 Act's deadline for delivery of Dolores water to the tribe.

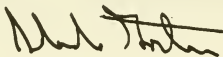
SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

Questions for each Administration Witness
Senate Indian Affairs Committee Hearing
February 14, 1995
submitted by Senator Slade Gorton

[1] In this year's budget request for Native Americans, does the Executive Branch propose to reduce payments, or benefits to Indian tribes, tribal organizations and individuals to offset tribal income or individual employment income from treaty or otherwise protected activities, such as gambling or fishing? As just one example, does the Administration propose reducing assistance to a tribe or group of tribes to reflect the amount of money they and their members earn from owning and operating Class III gaming establishments?

- [2] If so:
- (a) what specific programs or payments are subject, or not subject to being reduced?
 - (b) how is the amount of reduction determined? by formula? what is that formula?
 - (c) how is this reduction reflected in this year's Administration budget request? Please be specific.

- [3] If not:
- (a) why not?
 - (b) is it not possible or desirable to determine a specific formula for reducing funding to offset income derived from protected activities?
 - (c) are there any legal or legislative barriers to making such a reduction in federal payments?



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United States Senate

COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510-8450

February 23, 1995

The Honorable Gary Niles Kimble
Commissioner
Administration for Native Americans
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Commissioner Kimble:

Thank you for providing testimony before the Committee on February 16th on the ANA's FY96 budget request and its impact on Indians and Alaska Natives.

What follows are questions to which we ask you to provide written answers. Since the Committee must provide its views and estimates to the Budget Committee in the near future, we ask that you provide your written responses by no later than March 2, 1995 so that they can be considered by the Committee and included in the record of this hearing.

1. When will the Committee receive the Administration's proposal to reauthorize ANA for FY96? Without reauthorization in the coming weeks, ANA's FY96 request is vulnerable to being zeroed-out under a point of order objection.

2. The Indian Environmental Regulatory Enhancement Act (Pub.L. 101-408) authorizes ANA grants to Tribes to carry out important environmental efforts. How much of the ANA request for FY96 will be devoted to these grants?

3. Please provide detail on the number, amount, and nature of grants going to groups comprised of persons other than American Indians, Alaska Natives, and Native Hawaiians in FY95, and identify the authority for these allocations?

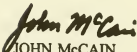
4. For FY96, the Administration for Native Americans is requesting funding at last year's level of \$38.5 million. What portions of this amount will be allocated for (a) environmental grants to tribes; (b) the Native Hawaiian revolving loan fund; (c) Native American language grants; and (d) the National Indian Policy Center?

The Honorable Gary Niles Kimble
February 23, 1995
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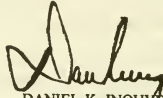
5. Concerning the \$8 million transferred to ANA from the Department of Defense in FY95, please provide the Committee the amounts transferred, the identity of the DOD accounts from which they were transferred, and the number, amount and nature of the grants or other activities to which these funds were applied?

Thank you for your timely consideration and response to these requests. We are also enclosing questions separately submitted by a Member of this Committee, Senator Gorton, and ask that you provide him and this Committee with a similarly timely and full response to his questions.

Sincerely,


JOHN McCAIN
Chairman

Enclosure


DANIEL K. INOUE
Vice-Chairman

Questions for each Administration Witness
Senate Indian Affairs Committee Hearing
February 14, 1995
submitted by Senator Slade Gorton

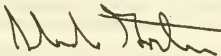
[1] In this year's budget request for Native Americans, does the Executive Branch propose to reduce payments, or benefits to Indian tribes, tribal organizations and individuals to offset tribal income or individual employment income from treaty or otherwise protected activities, such as gambling or fishing? As just one example, does the Administration propose reducing assistance to a tribe or group of tribes to reflect the amount of money they and their members earn from owning and operating Class III gaming establishments?

[2] If so:

- (a) what specific programs or payments are subject, or not subject to being reduced?
- (b) how is the amount of reduction determined? by formula? what is that formula?
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[3] If not:

- (a) why not?
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- (c) are there any legal or legislative barriers to making such a reduction in federal payments?

A handwritten signature in dark ink, appearing to be "M. T. Gorton", is located in the lower right portion of the page.

The Honorable Thomas Payzant
 Assistant Secretary for Elementary and Secondary Education
 U.S. Department of Education
 400 Maryland Avenue, S.W.
 Washington, D.C. 20202

QUESTIONS SUBMITTED BY THE COMMITTEE

Question. Your FY 96 request seeks a reduction in special programs, including graduate fellowship grants to individual Indians, that would seriously undermine recent efforts to increase the training opportunities for future Indian professionals. It appears that these cuts will be used to increase funds for "demonstration projects." How does the Administration reconcile its stated commitment to education with this proposed reduction?

Answer. Funds for the Fellowship program are appropriated on a forward funded basis. We expect to carry over a significant percentage of the fiscal year 1995 appropriation for use in fiscal year 1996. Consequently, the Department anticipates making approximately the same number of awards in fiscal year 1996 as in the past several years.

Question. Did the Department consult with any tribes before making such a shift in priorities?

Answer. Because the 1996 budget request does not propose a significant shift in current funding levels, the Department did not consult with tribes in its development. However, staff in the Office of Indian Education do consult frequently with Indian groups and officials. For example, OIE staff attended the annual National Indian Education Association conference last fall to gather input on how the Department should implement the reauthorized Indian Education discretionary projects, particularly the new Demonstrations authority. A number of tribal officials attended the Office of Elementary and Secondary Education/Office of Bilingual Education and Minority Languages Affairs "Mega-Conference" in December and participated in discussions with Department staff and other educators about the reauthorized ESEA programs. Also, as called for in legislation, the Department consults frequently and routinely with the National Advisory Council on Indian Education.

Question. What efforts are being made by the Department to assist American Indians and Alaska Natives in achieving post-secondary educational opportunities?

Answer. Indian students and postsecondary institutions participate in several Departmental postsecondary programs. These programs include the Department's student aid programs, the Title III Aid for Institutional Development program, the Minority Science Improvement program, and the TRIO Programs. At the Department's 1996 request level, an estimated \$104.5 million from these programs would assist Indian students pursuing postsecondary studies. In addition, the Department's vocational education programs also serve Indian students pursuing postsecondary-level studies. At the 1996 request level, an estimated \$20 million from these programs would directly benefit Indian students. While the primary purpose of the Department's Indian Education program is to assist Indian students at the elementary and secondary levels, the Professional Development and Fellowship activities under Special Programs for Indian Children provide some postsecondary support for Indian students.

Question. The Administration's "G.I. Bill for America's Workers" proposes to combine nearly 70 programs in four agencies into one workforce development system for adults and youth. Programs would be organized by states and localities in whatever manner best meets their needs. The following Native American programs will be affected by this proposed consolidation: tribally controlled postsecondary vocational institutions; vocational education opportunities for Indian and Hawaiian Natives; community-based education learning centers established under the Native Hawaiian Education Act; and summer youth grants to Indian entities and American Samoan training grants under Job-Training partnership Act. While we wholly support efforts to consolidate and streamline programs which are similar in nature in order to increase program accountability and to provide states and communities with greater flexibility in tailoring programs to meet individual needs, we are greatly concerned that in doing so the federal government might once again ignore the unique needs of American Indians, Alaska Natives, and Native Hawaiians, and the constitutional and statutory responsibilities for which the federal government is accountable. It appears to us that nearly \$40 million is now specified for these programs. Please provide this Committee with an assessment of how each of the current Native American programs will be affected by the proposed consolidation, and include an accurate breakdown, by program, of the total amounts of current levels of funding of the programs proposed to be consolidated, and the amounts you estimate will be preserved for these same Native American beneficiaries under the proposed consolidation?

Answer. We will propose elimination of most set-asides and categorical activities and authorities as part of the Administration's effort to consolidate a large number of uncoordinated and duplicative Federal job training programs into a coherent workforce development program. However, the bills would continue some of the current activities, and other issues are still under discussion.

- **Vocational Education Basic Grants--Indian Set-Aside (Vocational Education Opportunities for Indian and Hawaiian Natives)**
The restructured Perkins Act would authorize a single grant to States and Territories, with a 1.25 percent set-aside for Indian programs, as under current law.
FY 1995 funding level: \$12,526,000
Proposed FY 1996 funding level : minimum of \$12,526,000
- **Vocational Education Basic Grants--Native Hawaiian Set-Aside**
A decision on this set-aside is still under discussion. If the set-aside is not preserved, an equivalent level of funding would be included in the State grants.
FY 1995 funding level: \$2,518,000
- **Vocational Education-- Tribally Controlled Postsecondary Vocational Institutions**
Although the Administration requests no funding for the current Tribally Controlled Postsecondary Vocational Institutions, an equivalent level of support for these institutions would continue under the restructured vocational education program.
FY 1995 funding level: \$2,919,000
FY 1996 funding level: \$2,919,000

- **Community-based education learning centers established under the Native Hawaiian Education Act**
We are not requesting funds for this activity in FY 1996.
FY 1995 funding level: \$800,000
- **Summer Youth Grants to Indian Entities and American Samoan training grants under the Job Training Partnership Act**
These grants, which are administered by the Department of Labor, would be consolidated under the G.I. Bill. Equivalent levels of funding would be provided for these grants under the proposed consolidation.

Summer Youth Grants to Indian Entities
FY 1995 funding level: \$15,849,000

American Samoan Training Grants
FY 1995 funding level: \$5,000,000

Question. Will program consolidation result in any changes in program administration by the tribal grantees?

Answer. Program consolidation should not result in any substantial changes in program administration, although we would hope that the tribal grantees would collaborate with other State and local institutions in an effort to develop and expand school-to-work systems. In the case of Vocational Education Basic Grants, the set-aside would be preserved and program administration would not change.

Question. Any effort to divest tribes, tribal organizations, and Native Hawaiian organizations of authority to administer programs implementation would be contrary to one of the stated principles of the "G.I. Bill" -- greater localized flexibility and empowerment -- and so we ask to what extent were tribes, tribal organizations, and other Native American entities consulted in the process of the development of the "G.I. Bill"?

Answer. The Department held five regional hearings on the reauthorization of vocational and adult education programs; a number of tribal officials and other Indians, including the American Indian Higher Education Consortium and the United Tribes Technical Institute, testified at those hearings. A large number of Indian entities also submitted comments in response to the Department's September 20, 1994 Federal Register notice seeking public input on the reauthorizations. In addition, Assistant Secretary Kappner met with the American Indian Higher Education Consortium specifically to discuss the vocational education portion of the proposal.

Question. We understand that the Administration is currently reviewing the past policies establishing set-asides for Native Americans. As you well know, American Indians, Alaska Natives, and Native Hawaiians benefit from a number of statutory set-asides -- set-asides contained in acts such as the Carl Perkins Vocational and Applied Technologies Act and the Library Services and Construction Act. These allocations account

for tens of millions of dollars in funding for Indian Country and other Native communities. The rationale for these set-asides has been that the usual administrative and funding structures often do not work well in the unique contexts of Indian and Native communities. The unique challenges confronting Native communities -- geographical, cultural, economic and social barriers -- have often prevented them from securing access to vital programs and services. Many well-intentioned educational and employment programs, by virtue of the manner in which they were implemented, have consistently failed to reach the very communities which were in greatest need. To what extent is the Administration reviewing the policy of set-asides for Native populations and, in this review, what weight is being given to the foregoing considerations?

Answer. The Department currently has no plans to review or change any of the current set-asides benefitting Indian students. Many of the Department's programs with Indian set-asides were recently reauthorized in the Elementary and Secondary Education Act. The set-asides in the Carl Perkins Vocational and Applied Technologies Act will be reviewed as the Department develops its legislative proposal for those programs. The Department will keep in mind your concerns regarding the need for continuing these set-asides in vocational and libraries programs as we proceed through the reauthorization process.

Question. All too often, federal block grants to states or local entities have resulted in little or no services to American Indians, Alaska Natives, or Native Hawaiians. We have both worked in the past, and will continue to work together in the future, to provide for direct funding earmarks or set-asides to Indian tribes in block grant proposals. A recent report issued by the Inspector General of the Department of Health and Human Services found that 15 of the 24 states with the largest Native American populations did not provide social service block grant funds to Indian tribes. We understand the Department of Education intends to propose to block grant a number of programs to states and localities. In its proposal, will the Department assure Indian tribal governments and Native organizations a fair proportion of the funds and services, and if so, by what mechanism(s)?

Answer. The Department is not currently proposing block grant legislation for the educational programs we administer.

Question. We must express our disappointment that, once again, the Administration has failed to request funding Native Hawaiian educational programs for Fiscal Year 1996 on the basis that these programs are "unnecessary and duplicative". The Department's position is problematic. Last year the Department objected to the non-competitive nature of these grants. In "the Improving America's Schools Act", enacted last year, we made the grants competitive. And, in an effort to ensure program coordination and accountability, we established an education council. In addition, last year, Secretary Riley met with the Native Hawaiian grantees to hear, first hand, how these programs have increased the educational opportunities and improved the lives of Hawaiian children, families, and communities. Numerous efforts were made by the Native Hawaiian community and by this Committee to make these programs more acceptable to this Administration. Yet once again, we are faced with the same budget request -- zero funding for Native Hawaiian education programs.

Could you please explain to this Committee how the program performance of the six grantees under the Native Hawaiian Education Act can be duplicated by other "formula" and "competitive grant" programs?

Answer. Native Hawaiians, to the extent that they meet eligibility criteria that are applied to all citizens, are already eligible for Department of Education-funded services, including student financial aid, special education, and teacher professional development, that duplicate many of the activities in these programs. Under our 1996 budget request, the State of Hawaii will receive formula grants from such programs as Title I, Eisenhower Professional Development, Special Education State Grants, and Vocational and Adult Education State Grants, and from the Department of Health and Human Services for preschool services through the Child Care and Development block grant. The amount of each State grant awarded to Hawaii is computed taking into account all students in the State, including Native Hawaiians, who are eligible for the services. Organizations and public agencies in Hawaii are also eligible to apply for competitive grants under such programs as Javits Gifted and Talented Education, Special Education Program Support and Improvement, Higher Education Special Programs for the Disadvantaged, and other Federal programs.

For example, Native Hawaiian students are eligible for postsecondary education outreach and support services under the Federal TRIO programs, which are designed to encourage qualified individuals from disadvantaged backgrounds to enter and complete college. These services are very similar to the services provided under the Native Hawaiian Higher Education program. In fact, Native Hawaiian students may be better served under the TRIO programs, because their services are campus- or locally-based, whereas under the new Native Hawaiian Education Act, the grantee providing outreach and support services is most likely to be in Hawaii -- while the students to be served may be enrolled thousands of miles away on the mainland -- where it would be difficult (if not impossible) to provide such services. In either case, these students would be eligible for Federal student financial assistance to help pay for college.

The Javits Gifted and Talented Children program provides another example of duplication with the Education for Native Hawaiian programs. The Javits program provides competitive awards for activities to enhance the education of gifted and talented students. Native Hawaiian organizations are specifically named in the statute as eligible to compete for these funds, and each fiscal year at least half of the applications approved for funding must be for projects that identify and provide services to gifted and talented students -- such as Native Hawaiians -- who may not be identified and served through traditional assessment methods.

Finally, the State of Hawaii is required, in exchange for Federal funding under the Individuals with Disabilities Education Act, to provide for the full education of all students in Hawaii with disabilities, including Native Hawaiian students. That is why the Native Hawaiian Special Education program is duplicative of other programs.

Question. How will other programs meet the unique and pervasive educational needs of the Native Hawaiian people?

Answer. The other programs permit adequate flexibility for State and local governments or other funding recipients to meet the needs of the Native Hawaiians who are served by these programs.

Question. The Department of Education's Indian programs benefit federal and state recognized tribes -- federal recognition is not a pre-requisite. How does the Department differentiate between the necessity for Indian education programs and the alleged lack of necessity for the Hawaiian programs?

Answer. There is a clear trust relationship, established by treaty, between the U.S. Government and Indian tribes. However, we understand that Federal responsibility for the welfare of Hawaiian Natives devolved to the State of Hawaii under the terms of the Hawaii statehood act.

Question. We understand that the Administration has identified the Native Hawaiian community-based learning centers as one of the programs to be consolidated under the "G.I. Bill for America's Workers." Why has this new program been targeted for consolidation while all the other Native Hawaiian education programs have been proposed for termination?

Answer. While the Department is not requesting funds in 1996 for the Native Hawaiian Community-Based Education Learning Centers, the types of activities that would be carried out by these centers could be supported with consolidated grant funds. Under the GI Bill for America's Workers, the State of Hawaii, not the Federal Government, would determine whether funding for community-based education learning centers would be consistent with its program improvement plans and an effective use of Federal funds.

Question. The "Improving America's Schools Act", enacted last year, included the "Alaska Native Educational Equity, Support, and Assistance Act" -- a measure which was modeled upon the reauthorization of the Native Hawaiian Education Act. Is the Department requesting funds for this program?

Answer. The Department's fiscal year 1996 budget does not request funds for the "Alaska Native Educational Equity, Support and Assistance Act" programs.

QUESTIONS SUBMITTED BY SENATOR SLADE GORTON

Question. In this year's budget request for Native Americans, does the Executive Branch propose to reduce payments, or benefits to Indian tribes, tribal organizations and individuals to offset tribal income or individual employment income from treaty or otherwise protected activities, such as gambling or fishing? As just one example, does the Administration propose reducing money they and their members earn from owning and operating Class III gaming establishments?

Answer. In its fiscal year 1996 budget, the Department did not propose to reduce assistance to Indians based on income from treaty or otherwise protected activities such as gambling or fishing.

Question. If so:

- (a) What specific programs or payments are subject, or not subject to being reduced?
- (b) How is the amount of reduction determined? by formula? what is that formula?
- (c) How is this reduction reflected in this year's Administration budget request? Please be specific.

Answer: As mentioned above, the Department did not propose to reduce payments under any of its programs that benefit Indians to reflect tribal income from these activities.

Question: If not:

- (a) Why not?
- (b) Is it not possible or desirable to determine a specific formula for reducing funding to offset income derived from protected activities?
- (c) Are there any legal or legislative barriers to making such a reduction in federal payments?

Answer. The Department has no plans to develop a specific formula for reducing funding to offset income derived from protected activities. The vast majority of the Department's funds that benefit Indian students (approximately 87 percent) goes to public school districts, State educational agencies, institutions of higher education, and individuals. It would not be logical to reduce these funds to offset tribal income from treaty protected activities such as gambling or fishing. About 5 percent of the Department's assistance goes directly to tribes. Conceivably these awards could be reduced to reflect tribal income from treaty protected activities. However, in the absence of a statutory authorization to make such a reduction, it might not be possible to do so. The remaining 8 percent of the Department's assistance is transferred to the Bureau of Indian Affairs. The Bureau then distributes these funds according to the same statutory provisions that govern funds appropriated directly to the Department of the Interior for services to students in BIA schools.

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 PATRICIA M. ZELL, MINORITY DIRECTOR/COUNSEL

United States Senate

COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, DC 20510-6450

February 14, 1995

The Honorable Michael Trujillo, M.D.
 Director
 Indian Health Service
 U.S. Department of Health and Human Services
 5600 Fishers Lane
 Room 6-05
 Rockville, Maryland 20857

Dear Dr. Trujillo:

Thank you for providing testimony before the Committee on February 14th on the BIA's FY96 budget request and its impact on Indians and Alaska Natives.

What follows are questions to which we ask you to provide written answers. Since the Committee must provide its views and estimates to the Budget Committee by March 1, we ask that you provide your written responses by February 22, 1995 so that they can be considered by the Committee and included in the record of this hearing.

1. Last year Congress amended the law to expand the opportunities of Tribes to take over IHS functions under Self-Determination contracts and Self-Governance compacts. (a) Do you expect an expansion in FY96 of these tribal assumptions of IHS activities? (b) How many more compacts will IHS negotiate in FY96 over FY95? And (c), how much more than the current \$750 million in contracts and compacts will be transferred to Tribes in FY96?

2. I understand that IHS has under consideration a staff recommendation to make ineligible for contract support funding all dollars a compact Tribe negotiates out of the IHS Headquarters and Area Office bureaucracies even if the Tribe reallocates those dollars to direct services on the Reservation. This change is apparently an attempt to define downward an apparent shortfall of \$22 million in FY95. In my view, this IHS proposal would make Self-Governance less financially viable for Tribes. Tribes are now well into the second quarter of the fiscal year. (a) When will you make a decision on this issue and how will you ensure that Self-Governance is not made financially less than viable for Tribes choosing Self-Governance? (b) Using current methods for calculating Contract Support Fund requirements, what is the total amount of contract support dollars that will be required to make additional levels of contracting

The Honorable Michael Trujillo, M.D.
February 14, 1995
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and compacting a financially viable option for Tribes in FY96? And, (c) what portion of this total need will be met by your FY96 budget request?

3. Last year this Committee, with the assistance of your staff, developed the Indian Lands Open Dump Clean-up Act (Pub.L. 103-399). In it we included specific demonstration authority for immediate pilot projects to be carried out in FY96 by several Tribes. How much money has IHS allocated to implementing this Act, including the demonstration projects, in your FY96 request? What other steps will you take to implement this law?

4. As we discussed earlier today, your budget request indicates that IHS will lose between 160 and 230 FTE positions to streamlining and other reductions not related to tribal assumptions of IHS functions under compacts or contracts. What impact will these disproportionate FTE cuts have on the delivery of health care to Native Americans? Given the acute shortage of treatment dollars at the local level, will IHS commit to transfer to the service unit level all "savings" from these FTE reductions? Will there be a corresponding increase in funds requested for contract health care which can no longer be provided by IHS-funded FTE medical personnel?

5. In addition to the FTE cuts discussed above, I note that your FY96 budget request indicates IHS will cut an additional 176 FTE positions and related funds from other tribal programs in order to staff four new facilities. Is this what it appears to be -- IHS cutting FTE positions that supported some Tribes in order to staff new facilities serving others? Please identify for the Committee precisely where these FTE reductions will be taken under your budget proposal.

6. No funds are requested in FY96 to begin any construction of new health facilities. Many Tribes are forced on a daily basis to work with unsafe, unsanitary, and deteriorating health facilities. While we recognize the huge budgetary impact of new construction, are there not some creative ways by which IHS could work with Tribes to leverage private capital investment in the construction of new Indian health facilities and pay for them over time under the equivalent of lease-purchase payments instead of the old way of paying all costs up front?

7. Likewise, there is an enormous backlog of sanitation need which simply grows larger and larger despite the funds devoted to the purpose of constructing new facilities. What is your current estimate of need in this area? How does your FY96 budget request address this problem? Will the backlog be reduced in the foreseeable future? As in the previous question, are there not some creative ways by which IHS could work with Tribes to leverage private capital investment in the construction of new Indian sanitation facilities and pay for them over time under the equivalent of lease-use payments instead of the old way of paying all costs up front?

The Honorable Michael Trujillo, M.D.
February 14, 1995
Page 3

8. Your budget request includes funds for the establishment of a number of epidemiology centers. Where will those centers be located and what is your timeline for providing national coverage for such centers which this Committee authorized in 1992? In your view, could part or all of this activity be contracted or compacted by one or more Tribes or tribal organizations? Might some of the existing expertise within the IHS staff be available for IPA assignments to such a contracted or compacted effort?

9. In Pub.L. 102-573, Congress authorized IHS to begin to develop a grant program to establish a comprehensive health education program in schools serving American Indians and Alaska Natives. How does the IHS FY96 request reflect the efforts of IHS to implement this important program?

10. In Pub.L. 101-630, the Indian Child Protection and Family Violence Prevention Act, IHS is required, in cooperation with BIA, to establish an Indian Child Abuse Treatment Grant program pursuant to Section 409 of the Act. Has IHS implemented Section 409, and if so, please details the ways in which it has done so? I note that your request increases by \$250,000 the amounts available for child abuse initiatives. The request indicates that IHS will use these funds for the important work of increasing the detection of child abuse and establishing employee guidelines. But what if any funding does the IHS provide to tribal governments to conduct child abuse treatment efforts?

11. Recent data indicates the American Indians and Alaska Natives are among the highest at-risk population groups for contracting the HIV/AIDS virus. The conduct associated with HIV infections plagues Indian communities, including alcohol and substance abuse and increased intravenous drug use. In fact, during a recent two-year period, the number of Indian AIDS reported cases jumped by 120% in comparison with an overall national increase of 35%. Is it the Department's view that the IHS FY96 funding request of \$3.9 million is sufficient to meet the current and future demands for prevention and treatment of the HIV/AIDS epidemic in Indian and Alaska Native communities? What portion of these funds are provided directly to Tribes to conduct HIV/AIDS prevention activities?

12. In IHS's plans for negotiating Self-Governance agreements later this year on FY96 funds, is the IHS prepared to calculate the dollars necessary to carry out "residual" functions on an IHS-wide basis rather than twice at both the Headquarters and Area Office levels?

13. What methodologies has IHS developed to negotiate the transfer of environmental health and engineering programs, functions, activities and services to Self-Governance Tribes who wish to negotiate for these responsibilities? Has IHS placed any of these matters outside the scope of negotiations, and if so, by what specific legal authority has it done so?

The Honorable Michael Trujillo, M.D.
February 14, 1995
Page 4

14. What Area and Headquarter Office staffing and budget changes has IHS made in FY95 to enable it to fully fund the Self-Governance agreements it has negotiated for FY95? What plans does IHS have for doing so in its FY96 budget?

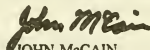
15. Upon tribal request, what process has IHS put in place, if any, to enable a Self-Governance Tribe to have a continuing base budget that includes all amounts it has negotiated from all levels of the IHS budget structure? If these amounts are not separately identified in the FY96 budget request, please supply the Committee with these amounts? If these amounts are not now separately administered in FY95, please inform the Committee when these base budgets will be separately identified and administered in FY95?

16. In view of the agency's responsibility to fully fund its Self-Governance agreements in FY96, and in view of the expanded authorities for both Self-Determination contracting and Self-Governance compacting, please identify what steps will be taken in preparation for FY96 to reduce staffing and free up budget resources for the agreements to be negotiated.

17. Please identify with specificity what restructuring, down-sizing, lay-offs or other personnel reductions IHS has taken to implement Tribal Self-Governance agreements in FY95? I note that in your request for FY96, some 69 FTEs are slated for reduction and their associated functions and funds transferred to Self-Governance agreements. Please identify with specificity these 69 FTE positions, their present locations and functions, and the functions and funds to be transferred.

Thank you for your consideration of these requests. I am also enclosing questions submitted by a Member of this Committee, Senator Gorton, and ask that you provide him and the Committee with a timely and full response to his questions.

Sincerely,


JOHN McCAIN
Chairman

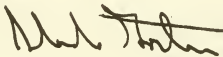
Enclosure

Questions for each Administration Witness
Senate Indian Affairs Committee Hearing
February 14, 1995
submitted by Senator Slade Gorton

[1] In this year's budget request for Native Americans, does the Executive Branch propose to reduce payments, or benefits to Indian tribes, tribal organizations and individuals to offset tribal income or individual employment income from treaty or otherwise protected activities, such as gambling or fishing? As just one example, does the Administration propose reducing assistance to a tribe or group of tribes to reflect the amount of money they and their members earn from owning and operating Class III gaming establishments?

- [2] If so:
- (a) what specific programs or payments are subject, or not subject to being reduced?
 - (b) how is the amount of reduction determined? by formula? what is that formula?
 - (c) how is this reduction reflected in this year's Administration budget request? Please be specific.

- [3] If not:
- (a) why not?
 - (b) is it not possible or desirable to determine a specific formula for reducing funding to offset income derived from protected activities?
 - (c) are there any legal or legislative barriers to making such a reduction in federal payments?



JOHN McCAIN, ARIZONA, CHAIRMAN
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United States Senate

COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510-8450

February 23, 1995

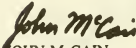
The Honorable Michael Trujillo, M.D.
Director
Indian Health Service
U.S. Department of Health and Human Services
5600 Fishers Lane
Room 6-05
Rockville, Maryland 20857

Dear Dr. Trujillo:

This letter will supplement our February 14, 1995 letter seeking responses to our questions arising from your appearance before the Committee on that same date concerning the IHS's FY96 budget request and its impact on Indians and Alaska Natives.

We have enclosed some additional questions which have been raised by Senator Dorgan and ask that you provide him and this Committee with a full response by March 2, 1995 so that your answers may be included in the record and considered by the Committee as it prepares its views and estimates on the IHS request which is due to the Budget Committee in the very near future. Thank you for your consideration of these requests.

Sincerely,


JOHN McCAIN
Chairman

Enclosure


DANIEL K. INOUE
Vice-Chairman

QUESTIONS FOR DR. MICHAEL TRUJILLO, DIRECTOR, IHS

1. It is my understanding that there is a \$300,000 set-aside earmarked for facilities on the Fort Berthold reservation in North Dakota. This funding has been available for over two years, and if it is not released during this fiscal year, it will be lost.

Why has the \$300,000 not been released, and what assurance can you provide that it will be released during this fiscal year?

2. When federal agencies talk about streamlining, they should talk about eliminating bureaucracy and passing savings along to tribes. I am concerned that IHS is not doing this in its restructuring plans.

For example, I understand that the IHS' AIDS prevention program costs over \$1 million annually. Less than one-third of the funds goes to tribes for prevention programs: \$500,000 is provided to the administrator in Albuquerque, who is a physician. There is also a full-time employee in each Area.

If this is correct, please explain why these funds are not directed to the service level, where the AIDS prevention program could be carried out by Community Health Representatives (CHRs).

3. Please provide a breakdown of funding between headquarters and field offices for each of the following programs: AIDS prevention, alcoholism, mental health and diabetes.
4. It is my understanding that service level IHS offices have experienced computer breakdowns due to inadequate and antiquated Management Information Systems (MIS). At the same time, Area offices and headquarters have the latest in technological equipment. Please explain the MIS equipment policy for field and Area offices, as well as for headquarters.
5. Please provide detailed information about the FY 1996 budget request for funding and staffing levels for the Aberdeen Area and North Dakota reservations. I am seeking assurances that the Belcourt IHS hospital and other IHS clinics and hospitals in North Dakota will be fully staffed.
6. What is the status of IHS efforts to develop and support an alcoholism treatment program on the Standing Rock Sioux Reservation in partnership with the Tribe and the State of North Dakota, as provided in the House report to H.R. 2686, the FY 1992 Department of the Interior and Related Agencies Appropriations Act (P.L. 102-154)?



DEPARTMENT OF HEALTH & HUMAN SERVICES

STATEMENT ON

PRESIDENT'S FISCAL YEAR 1996 BUDGET REQUEST
FOR THE ADMINISTRATION FOR NATIVE AMERICANS

By

GARY NILES KIMBLE
COMMISSIONER
ADMINISTRATION FOR NATIVE AMERICANS
ADMINISTRATION FOR CHILDREN AND FAMILIES
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

BEFORE THE
COMMITTEE ON INDIAN AFFAIRS

February 14, 1995

Chairman McCain, Vice-Chairman Inouye and members of the Committee, it is my great pleasure to come before you today in support of the Administration's budget request of \$38,461,000 for Fiscal Year (FY) 1996 for the Administration for Native Americans (ANA). There is a strong Administration commitment to address the critical issues that confront Tribes and Native American communities and we are working to strengthen the programs within ANA to support this commitment. I look forward to working closely with this Committee so we can continue the progress on this important work.

The Administration for Native Americans is a small agency with a big mission, which we take very seriously. The impact of our philosophy and policies are visible and viable in Native American communities across the country, in Alaska, and the Pacific Islands.

ANA serves over 520 federally-recognized Tribes (including over 200 Alaska village governments), about 60 Tribes that are State-recognized or seeking Federal recognition, Indian and Alaska Native organizations, Native Hawaiian communities, and Native populations throughout the Pacific Basin.

The FY 1996 budget request for ANA will assist Native American communities and their citizens to move further toward social and economic self-sufficiency in several key ways.

- o We are proposing to reauthorize through FY 1999 the Native American Social and Economic Development Strategies (SEDS) Grant Program. It will allow us to continue to support activities which cover a wide range of interrelated social and economic development efforts, including the expansion and creation of businesses and jobs in many areas and governance projects which include the development of new and existing Tribal constitutions and by-laws.
- o We also will continue to support community efforts to preserve their languages and meet their environmental enhancement responsibilities.
- o Finally, we are proposing to reauthorize as a permanent program, the Native Hawaiian Revolving Loan Fund (NHRLF). The NHRLF has been very successful in promoting economic development activities for Native Hawaiians and should be continued to allow for broader participation of the Native Hawaiian community in accessing economic development opportunities.

In order to provide the context for considering this budget request, I'd like to present our philosophy for working with Native American communities as well as a description of the progress we have made over the previous two years.

Philosophy and Policy

Our philosophy is to respect the right of self-determination and self-governance of all Tribes and Native American communities and organizations. Within this context, our goal is to provide assistance so Native American communities can become self-sufficient. We define a Native American community as self-sufficient when it can generate and control the resources necessary to meet its social and economic goals, and the needs of its members.

This approach which is embodied in the SEDS grant program, has moved many Tribal and Native programs from having Federal staff provide services to them, or operating federally-mandated programs, to developing and implementing their own discrete projects. Our policy recognizes the right of each individual Tribe and Native American group to move forward on its own terms, but more importantly to develop and achieve its own community infrastructure goals. SEDS was developed with formal Tribal and Native American leadership consultation. This is one example of how the government-to-government relationship is carried out in ANA.

Our policy is based on two fundamental principles:

- 1) The local community and its leadership is responsible for determining its goals, setting priorities, and planning and implementing programs aimed at achieving those goals. Further, the local community is in the best position to apply its own cultural, political, and socio-economic values to its long-term strategies and programs.
- 2) Economic and social development and governance are inter-related. In order to move toward self-sufficiency, development in one area should be balanced with development in the others. Consequently, comprehensive development strategies should address all aspects of the governmental, economic, and social infrastructures needed to promote self-sufficient communities.

Governance and Social and Economic Development

In FY 1994, ANA awarded 215 grants for governance, social and economic development projects. These grants include the expansion and creation of businesses and jobs; youth leadership and entrepreneurship; tourism; shopping centers; diversified agricultural projects; cultural centers; the first Native American tour business; fisheries; energy and natural resource management; and fish and wildlife preservation.

I would like to describe some of the accomplishments of the Tribes and Native American communities using these SEDS grants.

Examples of innovative business enterprises developed by these grants include Nambe Pueblo in New Mexico, the only Native American owned and operated tour business in Santa Fe which offers unique insights through Pueblo Indian guides, educational experiences, traditional foods, storytelling, and access to Pueblo Indian culture, history, arts and lifestyle. In North Carolina, the Cumberland County Association for Indian People's Senior Citizen Day Care Center established a self-sustaining business called The Native American Scene providing interior and exterior designs, landscaping, and architectural consultant advice. Ke Kua'aina Hanuana Hou on the island of Moloka'i has a viable aquaculture project based on an edible seaweed called "long ogo"--*Gracilaria parvispora*. This enterprise has created jobs for several Native Hawaiian families, jobs not otherwise available on the island which has a very high unemployment rate.

ANA's attention to environment and natural resources is illustrated by The Point No Point Treaty Council in Washington state. This natural resources management consortium project is developing a Wildlife Management Plan that will be the blue-print for wildlife management for four member Tribes focussing on treaty hunting rights and disputes, a Tribal wildlife protection enforcement program, and effective Tribal participation in

decisions which impact treaty-protected access to hunting grounds. Another example, the Alaska Sea Otter Commission is a consortium formed by six Alaska Native regions to restore to Alaska Native Tribal groups their traditional managerial authority over the sea otter--a vital resource for the traditional subsistence lifestyle and economy of coastal Alaska Natives. The ANA grant allows the Alaska Native groups to participate in the development of regional sea otter management plans to be incorporated into the cooperative Federal/State/Tribal management program.

ANA grants are working in the territories, too. In American Samoa, the American Samoan Government is reconstituting its archival records locally and nationally. The records will be catalogued into a data base and published in a Guide. In the Northern Marianas, the Northern Marianas College Business Assistance Center provides new and existing Native businesses access to technical and business information, business education, and business counseling to assist indigenous Native Pacific Islanders to compete with foreign business in their own economy. In Guam, the historic village of Inarajan formed a non-profit corporation, the Gef Pa'go Inarahan Chamorro Cultural Village to address the submergence of the Chamorro culture by the tourist-fueled economy based on U.S. administrative practices. The village as a living museum of Chamorro culture will provide the community members with an opportunity to earn a living through

the practice of their traditional skills by opening the village to tourists.

ANA also assists Tribes with status clarification and Federal recognition. ANA has provided financial assistance to 21 Tribes whose status was clarified through two routes: 1) Federal recognition through the BIA Branch of Acknowledgement and Research process (25 CFR process); and 2) congressional action. During FY 1994, with the assistance of ANA grants, three more Tribes have achieved Federal recognition. Currently 26 Tribes are conducting status clarification projects to re-establish their trust relationship with the United States.

Other ANA Funding Initiatives

In FY 1994 ANA funded projects in two new competitive areas that address critical needs at the Tribal and village level.

Native Languages Preservation and Enhancement

Eighteen projects were funded for the survival and continuing vitality of Native American languages. They include research on current Native language use; development of specialized curricula; Native language training programs; language immersion camps for youth; and master (elder)/apprentice programs; transcribing or recording on audio and video tapes;

oral narratives that will be used to develop or revise dictionaries and curricula; and incorporating a Tribe's language into Tribal Head Start programs.

Environmental Regulatory Enhancement

Tribes and Alaska village governments are operating 26 environmental regulatory enhancement projects that build professional staff capacity to monitor and enforce Tribal environmental programs; to develop Tribal environmental statutes and establish community environmental quality standards; and to conduct the research needed to identify sources of pollution and determine the impact on existing environmental quality. The projects also help Tribes and village governments to meet Federal environmental requirements.

Mitigating Environmental Impact of DOD Activities on Indian Lands

In FY 1995, 19 grants were approved for the mitigation of serious damage to Indian lands due to Department of Defense activities. Briefly, the projects will address mitigating the damage to treaty-protected spawning habitats caused by artillery practice; damage caused to Tribal range and forest lands by gunnery range activities; low level flights over sacred sites and religious ceremonies; suspected leakage of underground storage tanks on lands taken from Indians for temporary war-time use by

the Defense Department; and unexploded ordnance from gunnery and bombing practice on Indian reservation lands that has resulted in significant damage to rangelands, wildlife habitats, and stock water wells. These grants are funded by a transfer of funds from the Department of Defense to ANA.

For the FY 1995 funding cycle, ANA published a consolidated program announcement for applications under the three ANA competitive areas: 1) social and economic development; 2) environmental regulatory enhancement; and 3) Native American languages preservation and enhancement. Issuing this consolidated ANA program announcement at the beginning of the fiscal year supports comprehensive planning by our constituency. This approach also increased ANA's internal productivity.

ANA Progress on the Implementation of Public Law 102-375

We have made excellent progress in implementing the Native American Programs Act Amendments of 1992.

- o In April 1994, Secretary Shalala signed a Decision Memorandum that approved the Intra-Departmental Council on Native American Affairs Charter.

- o The Phase I report on focusing on a strategy for grant consolidation in the Administration for Children and Families is in the final clearance process and will be submitted to Congress shortly.
- o Phase II of the Plan involves the design and implementation of a Tribal and Native American leader consultation process to ensure that the legislative recommendations regarding grant consolidation reflect Native American goals and needs. We are working with Tribal leaders now to establish this consultation process.
- o The Report to the Congress on the Social and Economic Conditions of Native Americans should be ready to submit to Congress in the spring.

Conclusion

I hope I have conveyed to you the vital role that ANA plays in implementing a "living" model of the government-to-government relationship with the Tribes and Alaska village governments to carry out their agency legislative mandates and programs. This translates into understanding the complex subtleties that must be taken into account in developing the program policies that affect Native Americans. In ANA we can unequivocally state that this approach has proven to be the most effective way to ensure successful program results and Native American progress toward self-sufficiency. All federal agencies have a trust responsibility and this is one way to honor this responsibility.

I look forward to working with this Committee to build upon these efforts. I would be happy to answer any questions at this time.

Submission of Question and Answers for the Record**Senate Committee on Indian Affairs****February 16, 1995**

Question: When will the Committee receive the Administration's proposal to reauthorize ANA for FY96? Without reauthorization in the coming weeks, ANA's FY96 budget request is vulnerable to being zeroed-out under a point of order objection.

Answer: We expect that the Administration's proposal to reauthorize ANA for FY 1996 will be submitted to Congress shortly.

Question: The Indian Environmental Regulatory Enhancement Act (Pub.L. 101-408) authorizes ANA grants to Tribes to carry out important environmental efforts. How much of the ANA request for FY96 will be devoted to these grants?

Answer: The ANA FY 1996 budget request of \$38,461,000 includes \$3 million in new grants that will be devoted to Indian Environmental Regulatory Enhancement.

Question: Please provide detail on the number, amount, and nature of grants going to groups comprised of persons other than American Indians, Alaska Natives, and Native Hawaiians in FY95, and identify the authority for these allocations.

Answer: An overview of grants going to groups comprised of persons other than American Indians, Alaska Natives, and Native Hawaiians in FY 1995 follows.

Applications for FY 1995 grants under the ANA Consolidated Program Announcement, which included three SEDS [Social and Economic Development Strategies] grants and one Language Preservation grant, are currently under review in a competitive process. The final decision of award to successful applicants will not be known until later this year.

The following provides a summary of recent grants to groups comprised of persons other than American Indians, Alaska Natives, and Native Hawaiians.

AMERICAN SAMOA

Grantee: American Samoa GovernmentProject: Reconstitute the Archival Records of the American Samoa Government

Three-year grant: Year 1 = \$171,921
 Year 2 = \$113,876
 Year 3 = \$120,488 FY 94 funds

Funding Period: 9/30/91 - 7/31/95

Project Summary

This project brings together for the first time all of the major portions of known governmental and historical records, from local, national and international sources, in original or quality copy format. These will be catalogued into a governmental data base. A Guide will be published making these records available for use by government agencies, private agencies, and individual citizens. American Samoa personnel will be trained in the use of computers for archival work.

GUAM

Grantee: Guam Communications NetworkProject: The Revitalization of the Chamorro Culture and Language for the Guamanian Community of Southern California

One-year grant: \$175,000 FY 1994 funds

Funding Period: 7/10/94 - 6/30/95

Project Summary

This project will revitalize the Chamorro culture in the Guamanian community in Southern California. The Guam Communications Network is assembling a Living Cultural display. Staff and volunteers will operate the cultural display that will include exhibits on Guam artifacts, native arts and crafts, and photographs and Guam memorabilia.

Grantee: Gef Pa'go Inarahan Chamorro Cultural Village

Project: Chamorro Cultural Village and Museum

Two-year Grant: Year 1 = \$90,963
 Year 2 = \$72,650 FY 1994 funds

Funding Period: 9/01/93 to 8/31/95

Project Summary

Responding to requests by visitors and island leaders, for a showcase of local culture--both to attract tourists and educate the local youth about their heritage--the residents of the historic village of Inarahan formed a non-profit corporation called Gef Pa'go to establish a Chamorro Cultural Village.

The village opened in November 1992. This living museum provides the context whereby Guam's people can learn about and take pride in their heritage. More importantly, the community members are earning a living through the practice of traditional skills by opening the village to tourists.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Grantee: Northern Marianas College

Project: Business Assistance Center

Two-year grant: Year 1 - \$145,000
 Year 2 - \$130,000 FY 1994 funds

Funding Period: 9/30/93 - 9/29/95

Project Summary

The project provides new and existing businesses owned by indigenous Native Pacific Islanders with access to technical and business information, business education, and business counseling that will allow them to compete with foreign business people who are generally more experienced in business and better financed.

Regarding the legal basis for funding the Samoan and Northern Marianas grants, the ANA promotes the goal of economic and social self-sufficiency for American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives under section 802 of the Native American Programs Act (the Act) [42 U.S.C. 2991].

The ANA serves all Native Americans through financial assistance to governing bodies of Indian Tribes on Federal and state reservations, Alaska Native Village governments and regional corporations, and public and private agencies serving Native Hawaiians, and Indian and Alaska Native organizations in urban or rural areas that are not Indian reservations or Alaska villages, as well as public and nonprofit private agencies serving other Native Pacific Islanders (including American Samoan Natives) under section 803 of the Act [42 U.S.C. 2991b].

As described in section 815(6) of the Act [42 U.S.C. 2992c], the term "Native American Pacific Islanders" means an individual who is indigenous to a United States territory or possession located in the Pacific Ocean, and includes such individual while residing in the United States.

Question: For FY96, the Administration for Native Americans is requesting funding at last year's level of \$38.5 million. What portions of this amount will be allocated for (a) environmental grants to tribes; (b) the Native Hawaiian revolving loan fund; (c) Native American language grants; and (d) the National Indian Policy Center?

Answer:

ANA FY 1996 Budget Request: \$38.5 million

Allocations:

(a) Environmental Regulatory Enhancement	\$3 million
(b) Native Hawaiian Revolving Loan Fund	\$1 million
(c) Native American Language Grants	\$1 million
(d) National Indian Policy Center	-0-

Question: Concerning the \$8 million transferred to ANA from the Department of Defense in FY95, please provide the Committee the amounts transferred, and the number, amount and nature of the grants or other activities to which these funds were applied?

Answer: The amount transferred to ANA from the Department of Defense (DOD) in FY 1995 was \$8 million, on February 6, 1995. The transfer was from the "Native American Grants and Special Death Gratuities" account, DOD appropriation number 97X0100. These funds are "no year funds."

Grants have not been awarded from the FY 1995 funds. The closing date for applications under the FY 1995 ANA Program Announcement is August 18, 1995. Decisions on the applications received based on this announcement will be made in October, 1995.

Question: In this year's budget request for Native Americans, does the Executive Branch propose to reduce payments, or benefits to Indian tribes, tribal organizations and individuals to offset tribal income or individual employment income from treaty or otherwise protected activities, such as gambling or fishing? As just one example, does the Administration propose reducing assistance to a tribe or group of tribes to reflect the amount of money they and their members earn from owning and operating Class III gaming establishments?

If so:

- (a) what specific programs or payments are subject, or not subject to being reduced?
- (b) how is the amount of reduction determined? by formula? what is the formula?
- (c) how is this reduction reflected in this year's Administration budget request? Please be specific.

If not:

- (a) why not?
- (b) is it not possible or desirable to determine a specific formula for reducing funding to offset income derived from protected activities?
- (c) are there any legal or legislative barriers to making such a reduction in federal payments?

Answer: As the Commissioner of ANA, I can assure you that our FY 1996 budget does not reflect any reductions to payments, or benefits to Indian tribes, tribal organizations and individuals to offset tribal income or individual employment income from treaty or otherwise protected activities, such as gambling or fishing.

Testimony of

Julia Davis

Chairperson, National Indian

Health Board

Chairperson, Northwest Portland

Area Indian Health Board

Treasurer, Nez Perce Tribal

Council

Good morning, Mr. Chairman and members of the Committee. It is a pleasure to be here to testify on behalf of the National Indian Health Board on the FY 1996 proposed budget for the Indian Health Service. My name is Julia Davis, in addition to being chairperson of the National Indian Health Board, I am the Chairperson of the Northwest Portland Area Indian Health Board which represents 38 tribes in Oregon, Washington, and Idaho, and I am the Treasurer of the Nez Perce Tribal Council.

On Tuesday, Senator Paul Wellstone during this committee's oversight hearings made a comment that I believe is very important to today's discussion. The Senator expressed his view that Congress in these times of great budget constraints needs to focus on those investments which pay for themselves over and over. Mr. Chairman and members of the committee, the investment Congress has made in Indian Health since 1954 is just that kind of investment. The funding Congress has provided to build the Indian health care system has changed the health status of Indian people from one comparable to that of people in third world nations, to one which in most cases approaches that of the nation in general. We hope you will continue that investment because it is surely one of those that pays for itself over and over by improving the lives of Indian people every day.

The NIHB is somewhat handicapped in preparing this testimony because the full IHS budget justification became available just yesterday. So instead of discussing specific budget issues today I would like to first state that NIHB is pleased to see that, unlike last year, the President has proposed budget for Indian Health Service that maintains current service levels. We are disappointed that none of the well documented unmet needs for improvements in Indian health care have been addressed, particularly in the areas of Contract Support Costs, Contract Health Services, and facility construction.

I would like to describe an approach that tribes in the Northwest have supported to address IHS budget issues. Each year Congress holds hearings and each year both IHS and tribes come in and advise you of their specific needs for additional funds. We believe there is a more logical, fairer method to meet the needs of Indian people for health care and that is for the Department to propose and Congress to appropriate a budget according to principles which would maximize the federal investment in Indian health. I have included all of our proposed principles in my written testimony but want to mention a few we consider paramount.

Budget Principles

1. Appropriate increases must be included to compensate for all mandatories. IHS must not be forced to absorb these costs from program dollars as it has in the past.
2. Appropriate increases must be included to address the 2.6% annual growth in the Indian population and the increases distributed as mandatories to all programs. Congress has seen the wisdom of doing this sporadically in the past and should continue to address this critical issue.
3. Revenues from third party collections must not be used to offset budget authority. We are very pleased that the President's budget does not propose to do this.
4. Increases should be provided each year to address, even if it is in small steps, the health status objectives of the Indian Health Care Improvement Act.
5. Funding must be provided to staff all newly constructed health facilities. These important investments should be maximized by fully staffing these facilities.
6. Contract Health Services must be increased to reflect the actual medical inflation rate as identified by the Bureau of Labor Statistics. In many budget years the CHS budget has not kept pace with medical inflation rates and purchasing power has been lost.
7. The Catastrophic Health Emergency Fund must be budgeted at a level that covers all qualifying cases. This has not been the case for many years, putting small programs in jeopardy when they experience a catastrophic illness or injury which may use up a programs entire CHS budget.
8. A portion of the deferred services must be addressed each year with some increase in budget authority.
9. Full contract support funds should be provided to enable tribes who wish to operate their own programs to do so and at a level which will allow them to succeed. Savings from Federal administrative and FTE reductions should be converted to Contract Support Funding to provide an orderly transition of program management. We are particularly concerned about Contract Support Costs this year as many tribes are waiting for CSC funding in order to assume local control of health programs through Self-Determination Contracts or Self-Governance compacts. We believe that the amount proposed will cover only about 1/3 of the waiting list.

10. Reasonable increases should be provided to support the scholarship and loan repayment program to assure a steady stream of qualified health professionals.

11. Each year the IHS budget should include funding to build a minimum of ten new or expanded ambulatory health centers, to be financed through a variety of mechanisms including small facility grants, joint venture projects, loan guarantee and revolving loan programs, or federal projects. The President has only requested funds to complete two facilities, but no funds for any new facilities. Consequently, we sincerely encourage Congress this year to support the efforts of tribes themselves to secure new facilities.

12. The Indian Health Service must be allowed to adhere to its ten year plan for sanitation facility construction through adequate appropriations.

13. Funding must be provided to adequately maintain health facilities so that these major investments will serve communities for many productive years .

All of these principles are designed to meet well documented unmet health care needs of Indian people and to stabilize the Indian Health Care system so that tribes and IHS together can focus more on delivering quality health care and less on making our needs known to Congress.

We are very pleased to see that the President has proposed a budget which we believe at least partially some of our proposed principles. He has proposed increases to cover mandatory costs, not supplanted budget authority with projected collections, and proposed a modest increase in Contract Support Costs which we believe covers medical inflation but does not provide for any growth in the program.

This is a very different budget than the President proposed for Indian Health Service last year. We believe this is due to the efforts made by tribes to show members of the Administration the Indian Health Care system and the willingness of Dr. Lee, Dr. Boufford, and Dr. Trujillo to see the our facilities first hand and to meet frequently with tribal leaders. As a high level HHS Department Budget Bureaucrat recently remarked when asked for advice on IHS budget concerns, "You just need to get people out to see what you've done. Your programs are showcases of what government can do at its best."

NATIONAL AMERICAN INDIAN HOUSING COUNCIL

900 Second Street, N.E., Suite 220
Washington, D.C. 20002

Jacqueline L. Johnson
Chairperson
(907) 780-8868
Fax (907) 780-8895

Ruth A. Jaure
Executive Director
(202) 789-1754
Fax (202) 789-1758

SENATE COMMITTEE ON INDIAN AFFAIRS

HEARING ON THE PRESIDENT'S BUDGET FOR 1996
FOR HOUSING NATIVE AMERICANS

TESTIMONY

FEBRUARY 16, 1995

Chairman McCain and members of this Committee, my name is Jackie Johnson and I am the Chairperson of the National American Indian Housing Council. I am also Executive Director of the Tlingit-Haida Indian Housing Authority located in Juneau, Alaska. In addition, I am Vice-Chairperson of the Juneau Tlingit Haida Tribal Council and a member of the Raven/Sockeye Clan. Kus'een yo xat duwasakwak, Lukaxadi a'y'a xat, Yeith hit dax nax satee Kagwaantaan yadi.

At this very moment, Mr. Chairman, NAIHC, the organization I represent, is holding its First Legislative Conference in the Dirksen Building. Tribal leaders, IHAs, administration officers and members of Congress are meeting to discuss Indian housing, and other issues. I would like permission to submit to you, at the conclusion of our conference, our position on these issues, as well as our legislative agenda. It will reflect our united voice and will speak to you of concerns that we all share.

Mr. Chairman and members of this Committee, you have been avid followers of Native American issues and we appreciate your interest, concern, and commitment to Indian Country. I want to thank you for asking NAIHC to testify today. We are honored to have been invited to speak with you about housing for Native Americans who continue to be among the most impoverished people in the United States. In most states with heavy concentrations of Native Americans such as North Dakota, South Dakota, Montana, Arizona, Alaska, Maine, and Nevada, Native Americans are the highest percentage of rural people who live below poverty.¹ In New Mexico, Michigan and Washington, Native Americans are only a few percentage points better than the highest percentage of other rural minorities, in particular Hispanics and Black Americans.²

¹Ibid. Comparison of rural population percentages using State Data Sheets. Comparison with Blacks, Whites, Asian Pacific, and Hispanics rural populations.

²Ibid.

Mr. Chairman, in your own state of Arizona, there are approximately 205,000 Native Americans out of a total population of 3.5 million people.³ Of those 205,000 Native Americans, more than 56% (approximately 116,000) live in rural communities or on Indian reservations and almost 60% are below the recognized poverty level.⁴ This rural population occupies approximately 27,000 units but more than 44% of those units lack complete plumbing.⁵

In my own state of Alaska, the rural population for Native Americans living below poverty is almost 25% and more than 48% of their rural homes lack complete plumbing.⁶ New Mexico and Utah also have percentages of more than 30% of occupied units that lack complete plumbing for Native Americans living in rural communities and Indian reservations.⁷

Yes, Mr. Chairman, the need for housing in Indian Country **remains acute**. Current estimates place the need at between 70,000 and 90,000 units of new or rehabilitated, renovated or modernized housing.

Often we are asked why the housing needs of Native Americans are so great. I believe one reason is because federal housing programs were not available to Native Americans until just thirty years ago....twenty-five years after programs were established to help the rest of America's poor. **It is time this inequity was righted.**

Indian Housing Programs -- NAIHC's Role

The organization I represent, NAIHC, is the only Native American national nonprofit association whose sole mission is support--technical assistance, IHA management training, and advocacy-- of 187 Indian housing authorities (IHAs). IHAs are created under tribal ordinance by tribes with the police powers to create governing entities and by state legislatures in those areas where such powers do not exist. IHAs implement the Department of Housing and Urban Development's (HUD) Indian housing program. IHAs have built and managed more than 75,000 units, under this program, since 1962. **IHAs are the major providers of housing in Indian Country.**

Although federal housing programs came to Native Americans twenty five years *after* the rest of America began receiving federal housing, we have made great strides in learning how to house our

³State Data Sheets: An Overview of Poverty and Housing Data from the 1990 Census. Housing Assistance Council, Washington, D.C. January, 1994. State of Arizona data sheet page.

⁴Ibid.

⁵Ibid.

⁶Ibid. Alaska Data Sheet page.

⁷Ibid. New Mexico and Utah Data Sheet pages.

people. Today, IHAs manage two major programs - a rental program and a home ownership program. IHAs strive to build culturally-sensitive homes and to promote pride and honor in the homes in which Native Americans live. IHAs are frugal in the monies spent to maintain and operate programs, for IHA managers know of the competitive forces vying for federal dollars allocated for Indian housing. I am proud to say that, in large, the Indian housing programs are very successful. They are helping to meet our massive needs for housing and are sources of pride to those who feel fortunate to live in them.

The focus of my testimony today concerns three areas:

- 1) the regulatory and statutory changes currently being proposed that will dramatically affect the manner in which federal Indian housing is delivered;
- 2) the need for providing options on reservations and trust lands for private mortgage housing financing. Mr. Chairman, you helped introduce legislation in the 103rd Congress that hopefully will soon be re-introduced to create the Native American Finance Service Organization to address this need; and
- 3) funding for NAIHC to continue establishing an Indian housing research department, as well as continue its invaluable technical assistance and training programs for Indian housing authority managers and staff.

1. HUD's proposed Budget and Consolidation Plans

This year HUD's budget reflects the President's directive to streamline federal operations and cut the federal deficit. In meeting this directive, HUD's budget contains the beginning moves toward the ultimate goal of consolidating sixty programs into three by FY98. To cut administrative costs and streamline operations, HUD is also proposing to consolidate the programs into "block grants" which will then be given directly to state and local governments.

For Native Americans, HUD is proposing to set-aside funds in two of the three programs, targeted for consolidation by FY98, into two block grants that will go directly to tribal governments. One grant will be for the Community Opportunity Performance Funds Program which will include the Community Development Block Grant program for Native Americans and the other grant, will be an Affordable Housing Fund (AHF) which will replace our home ownership program and our set-aside for HOME. It will also include the Indian Loan Guarantee Program.

Native Americans will not have a set-aside in the third, a rental assistance program, which in FY96 will include two pools of funds - a Public and Indian Housing (PH/IH) Capital Fund and a PH/IH Operating Subsidies fund. In FY98, these programs will be consolidated into a Housing Certificates for Families and Individuals Fund and distributed to state governments. We have objected to having our share going to state governments as we prefer that it go to the IHAs or tribal governments. HUD seems to have agreed and is in the process of drafting a plan that will do so. The budget projects,

overall, that the consolidation and streamlining of operations will result in a savings of \$51 billion over five years in Budget Authority and \$13 billion in Outlays. The FY96 budget maintains HUD's budget authority at \$25.7 billion.

IHA Concerns

HUD's proposal to provide funding directly to tribal governments is a great achievement as it recognizes them as governing entities comparable to local and state governments. IHAs, however, have always been entities of the tribal government and they support self-governance and self-determination to which the proposal speaks but IHAs need to be insured that the experience and knowledge they possess continues to be used.

Initial concerns from tribal governments are that:

- o that they will get prepared and then proceed to administer the housing program only to find in later years that providing housing has become an "unfunded mandate,"
- o small tribal governments are not sure if the formula allocation will give them adequate dollars to ensure enough dollars to administer and operate the housing program,
- o added legal burdens may ensue since tribal governments will no longer have the legal separation they now enjoy from the housing authority's programs, and
- o administering the housing program may bring political upheaval to the tribe.

Some IHAs are worried that tribes will be vulnerable to many economic and political forces and divert funds away from housing toward other perceived pressures. Also, HUD is proposing to distribute the appropriations by formula. While formulas are always a concern, it is especially worrisome here where HUD totally lacks the basic data to determine an equitable allocation. Even if it relies on U.S. Census data, many tribal governments have publicly condemned that data as inaccurate.

HUD is proposing to move to a tenant-based voucher program by FY98 which will directly impact IHAs. While NAIHC realizes HUD's argument to consolidate programs and move to a voucher system, we question, "Why destabilize a well-performing program in housing-deficient Indian Country with an idea structured for housing-rich cities and suburban communities?" IHAs are concerned that a tenant-based voucher program will not work. This program depends on a private market housing stock. Few reservations and Native American communities have such a stock. Private housing markets have not developed, in large, because of the trust land status in Native American communities and the fear, on the part of private lenders and developers, that loans can not be collateralized. Also, Indian Country has feared alienation of its land to private lenders or developers in case of a default.

One long-term affect of a voucher program may be to pull Native Americans away from their home lands in pursuit of private housing in urban areas where they will be able to use their vouchers.

Another affect is that homelessness will be encouraged as Indian Country's acute shortage of housing means that many who stay on the reservations or in their communities will not be able to find homes for which they can use their vouchers.

NAIHC Recommendations

Mr. Chairman and members of this Committee, NAIHC recognizes that Congress must make some very difficult decisions; that voters in November sent a message to this body and you are working hard toward meeting many challenges. As you proceed in your decision-making, however, NAIHC recommends that you and the other Committees :

- o proceed carefully in the changes you make to the HUD program. While HUD promises flexibility in its proposal, this is not the case. The tenant-based voucher system that I just cited is an example where HUD is imposing a program that has no relevance to the problems that need to be addressed. We recommend that you allow real flexibility in the existing program and give IHAs the options of participating in a voucher program.
- o recognize the great need for housing which still exists in Indian Country. Since we started a generation *later* than the rest of American, we are years behind in meeting the acute need to house our people. During past decade, we have experienced constant reductions of appropriations and have not had the opportunity of even keeping up with the current need, let alone address past or future needs.
- o lengthens the time of transition. If IHA units are to move to a voucher system, we will need time to prepare for the change, to strengthen processes so IHAs can internalize a new way of operating, to educate residents so they will understand their options and to prepare tribal governments so they will work with the IHA to assure the programs success.

NAIHC believes, however, that HUD's proposed budget does merit some support. The Budget promises flexibility and less red tape. We support these ideas. In HUD's Blueprint, a HUD document supporting the budget, HUD promises no federal preferences and no income limits. NAIHC proposes to go further and ask for no 30% Rule and no Davis-Bacon Wage requirements. We say, "yes", however, to ceiling rents.

The Budget, in upcoming years, rolls all capital development programs into one and does not specifically request amounts for the set-asides for Native Americans. Mr. Chairman and members of this Committee, on behalf of NAIHC members, I plead with you to not let us lose ground in the progress we have made building homes for our people. We ask that you require HUD to allocate in its Public Housing Capital Fund the same amount for Indian housing development that it received in FY95. We must make up for the decades we lost while other Americans were being housed. In the Community Opportunity Performance Funds, NAIHC proposes \$70 million be set-aside for Native Americans and in the Affordable Housing Fund, \$15 million be set-aside. There should be a Native

American set-aside in the Homeless Assistance Fund of at least \$5 million.

2. Native American Financial Services Organization (NAFSO)

Last Congressional session, Mr. Chairman, you, Senator Inouye and Senator Campbell introduced legislation creating the Native American Financial Services Organization (NAFSO). Unfortunately, the 103rd Congress ended before this legislation could be considered. We understand that the legislation will be re-introduced this Congressional session and we are asking for your continuing support. This legislation will create a Native American technical services organization that will work with the Community Development Financial Institutions (CDFI) programs to create Native American Financial Institutions (NAFIs) in Indian Country. The program requires \$30 million; \$20 million will be used to help NAFIs get started and \$10 million for NAFSO to provide technical assistance to the NAFIs. NAFI will be able to provide funds to tribal entities for housing and economic development. This legislation is critical to helping us generate stronger economies and greater self-sufficiency.

3. NAIHC - Programs, Funding

Since 1992, NAIHC has received a technical assistance grant from Congress, through HUD's Policy Development and Research Office, to provide peer-to-peer, on-site assistance to IHAs. This unique program is extremely successful with an average of nearly one hundred visits per year to more than fifty IHAs. Already, at the half-way point of this year's contract, NAIHC has assisted 50 IHAs. NAIHC constantly receives correspondence from IHAs attesting to the quality of our assistance.

Because the need for accurate data on Native American housing remains acute, in FY96, NAIHC will initiate the nation's first Native American/Indian housing research program. Also, our organization is developing a professional training program that will educate IHAs in how to be better business/property managers. With the proposed changes at HUD, IHAs must learn to manage their properties in a new way. While many IHA programs are social services, the IHA's management and operations must adhere to strict business practices. IHAs must learn to generate self-supporting programs. NAIHC's proposed educational management training programs will address this need. We sincerely request your continued support for \$1 million.

Conclusion

The appropriations for Indian housing programs and NAIHC that we are requesting do not ask for more money. They simply represent the share needed to keep our people from falling even further into poverty. We appreciate the tight fiscal constraints on Congress. We recognize that this new Republican Congress and the Administration is working hard to reduce the costs of managing this nation's huge federal budget. We also know that this Congress is committed to making America live up to its full potential. America can become a greater nation when *all* of its people are raised up out of poverty and live in safe, secure homes. Together we - you from Congress, those of us from Indian Country - can work to help Native Americans realize this great dream.

Testimony of the National Tribal Environmental Council
 Before the Senate Committee on Indian Affairs
 Regarding the President's FY 1996 Budget Request
 February 16, 1995

INTRODUCTION

Mr. Chairman and members of the Senate Committee on Indian Affairs, my name is Jerry Pardilla, Interim Executive Director of the National Tribal Environmental Council (NTEC). Thank you for the opportunity to provide comments on the President's FY 1996 Budget, specifically pertaining to the Environmental Protection Agency's request.

The National Tribal Environmental Council

NTEC was created in 1991 as a membership organization dedicated to assisting tribes in the protection and preservation of reservation environments. NTEC's mission is to enhance each tribe's ability to protect, preserve and promote the wise management of air, land and water for the benefit of present and future generations. Currently, membership consists of sixty-one federally recognized tribes from nineteen states who are active in developing tribal environmental programs.

NTEC is an advocate for tribal governments as they seek to protect their people and their natural resources. To this end, NTEC completed the National

Tribal Environmental Review (NER) in May, 1994. This was a survey designed to determine the environmental conditions and needs of tribes and to ensure that NTEC creates a comprehensive response to those needs. 149 tribes participated in the review.

The NER Final Report demonstrated that tribal governments recognize their responsibility for complying with environmental laws enacted by Congress. The Final Report also demonstrates that Indian Country is subject to a broad range of environmental problems, including surface and ground water contamination, illegal dumping, hazardous waste disposal, military threats, air pollution, mining wastes, habitat destruction and human health risks and that tribes do not have sufficient funding and resources to protect their environments. The Final Report shows that even though some tribes have developed environmental programs, many tribes have no environmental regulatory presence on their lands and that assistance to tribal governments, both technical and financial, is of the utmost importance if tribal governments are to protect their lands and their people.

OVERVIEW

The EPA deserves special recognition for its recent efforts to address tribal concerns and to institutionalize an Indian presence within EPA. While these measures are noteworthy, they have not translated to substantial funding increases for tribes to meaningfully protect their people and environments. For instance, EPA has requested the \$15 million authorization level for General Assistance Programs.

Yet this \$6.5 million increase from FY 1995 still does not adequately address the severe budget shortfalls which tribes have had to face over the past two decades. Comparatively speaking, EPA has not provided funding to tribes to the same level or scope as it has to states. Thus, as states have built program capability to implement and manage delegated programs from EPA and have received baseline funding, tribes have been largely neglected.

President's FY 1996 Budget for the Environmental Protection Agency

President Clinton and EPA Administrator Carol Browner are to be commended for their commitment in the proposed FY 1996 EPA budget to advance a cleaner, cheaper, smarter environmental agenda, which expects to fundamentally change the way government protects our environment and our health – with innovation, flexibility, and fairness. The EPA's budget is designed to effect this change through the implementation of the Agency's strategic plan, The New Generation of Environmental Protection. Among the guiding strategic principles, tribes would have strong interest in ecosystem protection, performance partnerships, and environmental justice. Ecosystem protection would take a new approach to deliver both science and resources to local stakeholders like tribes in a manner relevant to the place being protected. An integral component of ecosystem protection would be the performance partnerships which would allow tribes to receive one or more consolidated grants as a substitute for several environmental

categorical grants. Thus, tribes would be able to target resources towards their most pressing environmental priorities.

During 1994, the Administration took several significant steps which increase the likelihood for tribes to participate in the policy and budgetary decisions of EPA, to obtain funding increases, and to develop environmental regulatory capacity. Measures which recognize tribes as sovereigns and that their unique, legal relationships with the United States require special consideration include: (a) the President's Executive Order for Consultation, Executive Order 12898 for Environmental Justice; (b) EPA Administrator Browner's reaffirmation of the 1984 Indian Policy; (c) issuance of its Implementation Guidelines; (d) the establishment of the Tribal Operations Committee; and (e) the formation of the American Indian Environmental Office. These actions are encouraging and deserve praise for developing an Indian presence in the EPA. However, the Administration policies and directives, separately and collectively, must translate to real changes at the community level in order for tribes to realize the protection promised to all Americans in EPA's mission statement. Otherwise, they will become symbolic, but meaningless, gestures.

The Administration has built a framework in its policies and its agenda to consider tribal input and concerns. Now it must take the next steps to fund tribes at levels where their people and environments will receive the protection they deserve. The EPA's proposed budget is \$7.4 billion and contains a modest increase of \$138 million (2%) from FY 1995. This budget proposes to redirect Agency resources

to target the highest risks; provide fast relief for communities near toxic dumpsites; strengthen partnerships with states, tribes and communities; strengthen science; and strengthen enforcement and ensure compliance with environmental laws.

EPA Must Make a Greater Commitment to Tribes

Tribes seemingly would be well served by redirecting resources to the target areas identified by the Administration's EPA agenda, but it is not clear how much of the Agency budget increases can be counted as direct dollars to tribal programs. The Agency's budget provides for the operational expenses related to the American Indian Environmental Office and its support of the Tribal Operations Committee. It further increases the Indian General Assistance Program from \$8.5 million to its authorized level of \$15 million. These steps are moving in the right direction to allow tribes to establish their environmental programs and for the Agency to seek tribal input in the federal budget and decision-making processes. Yet there must be a commitment to substantially increase the overall funding for tribal environmental programs and the operational level.

The General Assistance Program (GAP) is designed to increase tribe's capacity to manage environmental programs and is not intended to be the basis for ongoing program support. Therefore, there must be a two-fold resources strategy. First, there must be a continued commitment to fund GAP at levels which will support tribal capacity building. Presently, the \$15 million request for GAP is a 176% increase from FY 1995, but it is still not adequate to fund tribal efforts to establish

environmental programs. For instance, if all federally recognized tribes were to receive GAP funding at the statutory minimum of \$75,000, there would need to be a request for at least \$41 million. Second, there must be an emphasis placed on funding sustained environmental programs beyond GAP funding.

The President's Budget allocates \$683 million to support state, local and tribal environmental programs as part of the Operating Programs. This could be one source for funding the sustained tribal environmental programs, yet it is not clear from the FY 1996 budget as to what funding allocations are directed to tribes, except for the General Assistance Program. The agency must clearly identify all of the resources it devotes to tribal programs -- not only the General Assistance Program -- before Tribes can ascertain with any assurance the true level of funds committed to protecting tribal lands.

Disparity in Funding Between Tribes and States Harms Tribal Efforts

Historically, tribes have never received adequate funding from EPA to protect their people and environments. For example, the NER Final Report found that in the period from the adoption of the EPA's 1984 Indian Policy and the completion of the Final Report in May, 1994, the Agency received about \$23 billion dollars in additional funding with no discernible increase in funding for the protection of tribal people and their environments. In the five year period from 1989 through 1993, EPA funding for all Indian Tribes never exceeded one-third (1/3) of one percent of EPA's total budget.

A continued lack of funding poses a serious threat to tribe's human health and environments, and presents an environmental justice issue which contravenes Executive Order 12898. As the Administration proposes to enhance environmental results through partnerships with Tribes, it must deal squarely with this inadequate funding and neglect. Tribes would require a substantial funding increase to compensate for these years of neglect. This is clearly the type of environmental justice issue contemplated by the Environmental Justice Executive order.

By comparison, States have received continuous EPA funding over the past two decades, allowing them to build program capability to implement and manage delegated programs and to receive baseline funding. Tribes have not been accorded similar treatment. It is hoped that the Administration's recent policy actions will bring about more positive changes for tribes. The Agency's performance partnerships and program grants must reconcile these inequities and provide for funding to tribes at the same level and scope which the States have received.

Tribes are well aware of the disparity in technical and regulatory capacity between tribes and states, and the preferences States receive in funding. This has only exacerbated relationships between these sovereigns. Until tribes are able to establish their own technical and regulatory capacity bolstered by baseline federal funding, they will remain both challenged to protect their people and environments and at disadvantaged positions to work out jurisdictional differences with states.

CONCLUSION

We thank the Senate Committee on Indian Affairs for conducting this hearing on the President's FY 1996 Budget and for inviting NTEC to testify. We applaud the strides the Administration has taken in its policies to address tribal concerns and to institutionalize and Indian presence within EPA. Administrator Browner is to be commended for her policy directives in 1994. These significant policy steps, however, must now be followed by substantial funding increases so that tribes can establish meaningful programs to protect their people and environments.

**TESTIMONY BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS ON THE
INTERIOR'S ENERGY PROGRAMS AND THE ADMINISTRATION FOR
NATIVE AMERICANS - FISCAL YEAR 1996
BY THE COUNCIL OF ENERGY RESOURCE TRIBES (CERT)
February 16, 1995**

Mr. Chairman, I am A. David Lester. For the last 12 years, I have had the pleasure to serve as the Executive Director of the Council of Energy Resource Tribes (CERT) and I am here today representing the CERT Board of Directors. I am also here as a former Administration for Native Americans Commissioner and the Co-Chairman for the Administration for Native Americans' Ad Hoc Coalition -- a coalition of Tribes, tribal organizations and other Native American communities who actively support the ANA program, its funding and reauthorization, and its long and successful track record supporting locally conceived social and economic development.

CERT is a national Tribal organization composed of 53 federally-recognized Tribes from throughout the United States, representing nearly sixty (60) percent of all American Indians living on or near reservations. The CERT Board of Directors is made up of the elected leadership of each of the 53 Tribes that CERT serves. CERT member Tribes include those with substantial and potential energy resources as well as Tribes concerned about energy development, production, resource conservation, environmental protection and development of alternative energy technologies. CERT's mission is to support member Tribes as they develop their management capabilities and use their energy resources as the foundation for building stable, balanced self-governed economies.

The Council of Energy Resource Tribes was asked to comment on the Department of Interior's energy-related programs as well as the Administration for Native Americans program. However, these Indian programs should be read in the light of the priorities of a new Congress. The new Congress has offered America a contract which promotes less government regulation and more localized control. In essence, it is offering self-governance. For decades, Indian Tribes have called for less government regulation, more effective government programs, and more local control. It is, as always, about time Americans have caught up with American Indians.

The Contract with America may call for less government and more effective government programs. However, this new contractual approach must not be confused with the programmatic approach taken with Indian programs. While the Contract with America's goals are parallel that of Indian Tribes, its tact is to cut what Congress perceives as wasteful or duplicative or disposable. Reauthorization may be perceived as a luxury in other corridors but for Indian programs, reauthorization takes on a very different significance. Logic and history dictates that these Indian programs that have been created were not created as a fluke or out of the sheer generosity of certain departments. Most Indian programs were created in response to treaty requirements or the real trust obligation owed to Tribes. These are not programs appropriately measured by success rates or bottom-lines. These are programs of real necessity. The question becomes not of the perceived worth of these programs but the appropriate level of appropriations required to carry out the federal fiduciary obligation owed to their tribal constituency. The federal trust protection responsibilities; the political relationship between Indian nations and the United States characterized as Government-to-Government and the commitment of America to assist and support self-determined social and economic progress is also a solemn contract America has with the First Nations of this great land.

Suppose for a moment these programs were viewed only through this new lens. The energy programs and economic development programs in both the Interior and ANA represents programs and funding that seeks to not only provide technical and financial assistance to Tribes to develop their energy resources but also provide assistance to Tribes for training and thoughtful management. Mineral income represents, by far, one of the largest source of income to Tribes. In 1992, the mineral royalty income on Indian lands was over \$156.4 million dollars, representing an increase of over \$34 million from 1989. With large reserves of undeveloped coal and natural gas resources remaining, Indian minerals are still a mainstay of economic growth for many Tribes. In purely financial terms, these programs present the government with solid, productive investments. The results are Tribal projects which bolster both local control and local economies. And with the tribal taxation regime in its current state, mineral production is one of the very few lucrative tax opportunities for Tribes. If these programs are dramatically decreased, the potential economic fallout will be swift and sure. Collapsed tribal economies would logically lead to mass urban migrations and increased welfare dependence – results nobody, especially the Tribes, wants.

The future, however, has the potential to be just as bright as the past. Through the support and years of work by CERT member Tribes, the reality is that Indian energy production continues to represent the largest single source of revenue of Indian trust income. CERT Tribes have taken an active lead in the protection of tribal natural resources and remain active defenders of the government-to-government relationship between Federal and state governments and Indian Tribes. CERT, the organization, provides requested managerial and technical services directly to Tribes, helping to build a strong economic base at the local tribal level. CERT's integrated approach to development is a comprehensive strategy – linking development of energy resources, achieving and maintaining environmental equity, building governmental infrastructures and creating a strong economic base by emphasizing human and social along with economic development.

In the end, analyzing the government's Indian programs must be analyzed as the Tribes themselves see and successfully structure them – integrated. Taken separate and apart, Indian programs are easy to comment on – their value, the clear need for them by Tribes, their strengths and their weaknesses. But Indian programs such as these cannot be taken separate and apart much less analyzed in a programmatic vacuum. The programs' constituency, while separately distinct, is a national one, often served individually, but requiring an appropriate level of program planning and attention owed a vitally important and theoretically integrated national tribal self-determination program. It is only at this level that a successful self-determination program can operate to serve best a geographically expansive constituency and do so effectively at a grassroots level.

It is precisely at this point that we understand the need, really the necessity, to view Indian programs, wherever they may reside, in an integrated approach. The goal – Tribes cultivating their own economies, having mastered the tools of modern technology, while balancing environmental and cultural concerns with economic growth. The approach to development taking into consideration all its different and potential facets, however, is not new. It is that way because it has been proven to work when Tribes are leading the effort. It is an approach to tribal self-sufficiency that focuses on self-government, providing Tribes sufficient capital and technical advice to venture into charted and successful waters, providing Tribes the opportunity to do for themselves what they stand ready and able to do, providing Tribes the necessary

technical expertise and training to either initiate or take over technical and regulatory programs for themselves, and providing Tribes the room to develop their own priorities, initiatives, economies, programs, resources, communities, projects and futures.

Again, the approach is proven. The approach is really one Tribes have themselves traditionally followed. The collective tribal wisdom views change and development not as a singular goal, or an end-all, but as a process. A process that requires considerable thought, planning and balance in approach. Just as a Tribe would not approach a harvest without planning the next planting season, and while doing so teach their children about the processes and the reasons behind them, Tribes cannot approach development and governance looking only at their bottom-line.

Tribes are not simply corporations. Tribes are not projects. Tribes have their own solemn duty to approach development and change by taking into careful consideration the needs of their own constituencies to be protected, to be educated and trained, to be self-sufficient, to be in control of their own lands and collective futures. The programs that serve them must reflect these Tribal imperatives. Without such an approach, programs will come and go, and will fail, and the bureaucrats that administer them, situated in their own cubicals, cut off from the rest of the world, will scratch their heads wondering what happened.

As the CERT Chairman of the Board, Chairman Shields of the Assiniboine and Sioux Tribes of the Fort Peck Reservation, mentioned in his address regarding the streamlining and restructuring of the Bureau of Indian Affairs last month, downsizing or "streamlining" in the federal government is a reality that Tribes understand. However, streamlining should be approached as an opportunity to reevaluate the effectiveness of programs and opportunity to bring about performance improvement on the part of the government, not an opportunity to cut programs and Tribal funding legally mandated through treaty or trust obligations. Reorganization and downsizing of the BIA, and of other departments, is appropriate and effective if done for the right reasons -- if must protect the interests of tribal governments and Indian people.

The Indian programs related to resource management and energy are key programs in the approach the government must take in fostering a system which makes it easier, and logical, for Tribes to control their own vast resource base and futures. These programs are ones which particularly fall under the rubric of federal trust responsibility because they so intricately affect the particular means by which Tribes have exercised some measure of control over their relationships with outside governments -- by trade, by forfeit, by forced taking; and by which Tribes exercise control over their own futures -- by development or by conservation of their natural resources. It is precisely this level of particularly complex control, in its most broad interpretation, that these programs must continue to facilitate and manage, at the federal and local level, to aid Tribes in achieving well-balanced, self-sufficient, culturally relevant economies.

At this time, CERT urges Congress to make the following considerations in preparing reauthorizing and appropriations legislation for FY 1996:

BUREAU OF INDIAN AFFAIRS PROGRAMS

BIA Energy and Minerals Programs and Funding

Mineral Assessments Program

FY95 Recommendations	\$ 8 million
FY95 Appropriations	\$ 1.979 million
FY96 President's Budget Request	\$ 1.495 million
FY96 Recommendation	\$ 8 million

It is a regular occurrence that the BIA Division of Energy and Minerals receives applications in excess of \$ 7 million from Tribes seeking to have their potential mineral development assessed. In 1988, the BIA Energy and Minerals budget peaked at \$ 8 million. The subsequent sharp decline in appropriations and budgets for this office spurred the Office of Inspector General, during its 1993 audit, to report that the Division of Energy and Minerals was substantially meeting its program objectives with the exception of adequate funding for mineral programs. The Office of Inspector General was dismayed at the high percentage of worthy tribal mineral programs that have gone, and continue to be, unfunded due to lack of appropriations. The Office of Inspector General itself, and CERT, has urged, and continues to do so, for increased appropriations and fund allocations for such mineral projects.

The Mineral Assessments Program has performed or supported mineral assessments on almost fifty (50) percent of Indian lands. The Program assesses and makes available minerals reserves information to Tribes, including oil, gas, coal and other minerals such as sand and gravel, copper and precious minerals. The Division retains and manages unique geoscientific data. Such data is retained in systems like: the National Indian Seismic Evaluation System (which collects, analyzes and manages exploration data important to the identification of oil and gas potential on Indian lands); the National Indian Energy and Mineral Resources Data Base (which is an automated data base for all Indian energy and mineral resources nationwide); the National Indian Oil and Gas Evaluation and Management System (which is a national system to monitor oil and gas production on a day to day basis); and the National Indian Seismic Program (which will collect and store tribally-owned seismic data, allow data processing and modeling of seismic data, allow seismic data interpretation and mapping, and consult and assist Tribes to acquire previously shot seismic data).

Such programs and systems are essential to Tribes and CERT recommends that the Mineral Assessment Program be increased to maintain and strengthen such systems. However, systems alone will not support tribal energy development programs. Tribes require more – more training, more planning, more well-thought out mineral management programs that affect their day-to-day operations, more access to higher levels of technical advice. The Division's Indian Minerals Management course that upgrades Tribal capabilities in mineral management is a shining example of innovative and meaningful technical training. CERT is now working to add an environmental protection and mitigation component that would carry college credit to this successful program.

Special Tribal Projects

FY95 Recommendations	\$ 4 million
FY95 Appropriations	\$ 595,000
FY96 President's Budget Request	\$ 875,000
FY96 Recommendations	\$ 4 million

By far, the Division of Energy and Mineral's programs are some of the most important programs precisely because of the Bureau of Indian Affairs' land-based and fiduciary obligation owed to Tribes, by treaty and by trust. The BIA has a serious and legal responsibility to protect Indian and Tribal landowners who seek to develop the minerals and other resources on their lands. Indian mineral development represents the single largest means by which trust income is generated on Indian lands. The cuts to this program over the years is resulting in a substantial loss to Indian communities which would otherwise serve to bolster and stabilize local tribal economies.

The Special Projects Program presents the programmatic flexibility required to provide support to tribal projects, of which there are many, that do not fall under the Mineral Assessments program. Currently, this program trains and works with tribal resource managers, provides automated oil and gas evaluation and management systems and assists Tribes in developing oil and gas resources. This current assistance can be effectively combined with other tribal-specific projects. Tribal initiatives in resource development and management have become a truly exciting area of economic development as Tribes are increasingly considering new and innovative ways to do business — co-venturing with industry and with other Tribes, creatively structuring and restructuring leases and contracts, establishing tribal production companies to take over their own resource development. And thereby creating more local jobs and increasing Tribal tax base. Some obvious benefits from these activities include the generation of badly needed jobs and income on reservations. For example, the royalty income from just three producing coal mines on the Navajo Nation brings in over \$60,000,000 and over 1800 Navajo employees earn more than \$55,000,000 in wages from this tribal enterprise. These numbers should be all anyone needs to see the overall value of program activities in this area.

Technical Assistance

FY95 Recommendations	\$ 500,000
FY96 Appropriations	\$ 0
FY96 Recommendations	\$ 500,000

It is patently obvious that the BIA, while having considerable expertise in the energy and resource development areas relevant to Tribes, cannot possibly have all the expertise required for the rapidly growing and expanding tribal agendas in relation to energy and resource development. The BIA technical assistance program is vitally important in acting as a vehicle which may supplement the BIA's expertise. Assistance in the form of providing technical advice and training opportunities to Tribes which would allow them to exercise technical as well as governmental control over the energy and resource development projects within their jurisdiction. CERT along with other service providers has historically provided these important technical services.

Tribal projects requiring detailed and complex technical assistance are expanding rapidly. For

example, Tribes are seriously considering the need to regulate not only their own energy development but their own energy consumption, i.e., tribal utilities. Electricity regulation by Tribes is not just a concept. It is a reality. Much more, it is a necessity for Tribes who are paying outrageous utility bills for electricity generated from their own water and other energy resources. These expansive and technically-complex tribal agendas are emerging and require funding and technical advice to support them.

Other areas in which technical assistance can be provided is assisting Tribes to better manage existing energy operations, supporting other special Tribal initiatives and establishing comprehensive tribal environmental protection programs. For the Sac & Fox Tribe of Oklahoma, CERT was able to provide assistance by advising the Tribe on more effective organizational management structures in their oil and gas field operations which increased revenues, without increasing cost to the Tribe. For the Pueblo of Laguna, the Pueblo of Acoma, the Shoshone and Bannock Tribes of the Fort Hall Reservation, among others, CERT was able to provide valuable assistance in rights-of-way negotiations which resulted in increased revenues. Countless other CERT projects have addressed the need for environmental protection. CERT has utilized its professional staff, as well as its environmental interns, to work on environmental protection projects and environmental training which have been designed in concert with Tribal management structures and/or development projects.

As Tribes have stepped into the fore of environmental protection and regulatory fields, CERT has kept pace to not only provide technical advice regarding specific media areas but multi-media policy analysis. CERT, working with Tribal leadership, provided technical and policy advice regarding the integration of multi-media programs as well as working with non-Tribal governments on transboundary environmental issues such as hazardous waste transportation, federal facilities regulatory compliance programs affecting Indian communities, nuclear and low-level radioactive waste management affecting surrounding tribal communities, land and property acquisition issues, remediation (especially bioremediation) technology development, and risk assessment forums.

CERT has been actively on the forefront of discussions regarding technology development, especially as it pertains to Tribes involved in remediation activities affecting Tribal lands and treaty interests. CERT has also been on the forefront of discussions with federal departments, as well as special interests groups and Tribes, regarding federal risk assessment policies and procedures as it pertains to Tribes – shedding some light on the governmental processes which often budget and decide about clean-up operations and assess the risk on nearby populations, often Indian. These risk assessments have often been the tool by which governments have decided to allow on-going high risk activities to go on near or on Indian reservations because of perceived, and analyzed, risk rates based on population density. Rather than seeing the risk to a whole Nation of native people

Changes in mining and environmental laws are areas which require analysis but also tribal and industry outreach. Changes are refueling interest in Indian minerals. These inherently and rapidly changing areas of technology and regulation are areas that require on-going attention, especially in relation to Tribal and federal interests. While the projects and required technical advice may be specific in nature, the critical need to work with all the affected governments is clear. The regulation may be local but the transboundary nature of environmental regulation, and coordination, on a very real level, is national and intertribal.

BIA Grants and Loan ProgramsIndian Direct Loan Program

FY95 Appropriations	\$ 2.4 million
FY96 President's Budget Request	\$ 0

Business Enterprise Development Grants

FY95 Appropriations	\$ 2.9 million
FY96 President's Budget Request	\$ 0

Small Business Venture Capital Fund

FY95 Appropriations	\$ 0
FY96 President's Budget Request	\$ 3 million

Community and Reservation Economic Development Grants

FY95 Appropriations	\$ 5.945 million
FY96 President's Budget Request	\$ 5.946 million

Technical Assistance Funding

FY95 Appropriations	\$ 768,000
FY96 President's Budget Request	\$ 770,000

Central Office Budget for Economic Development (staff)

FY95 Appropriations	\$ 927,000
FY96 President's Budget Request	\$ 939,000

Area Office Operations (staff)

FY95 Appropriations	\$ 1.050 million
FY96 President's Budget Request	\$ 998,000

The Bureau of Indian Affairs has stated that its priority is economic development but when you look at the figures, it is clear it is not being funded as such. This overall program does not reach out to individual Indian entrepreneurs but primarily targeted to serve tribal enterprise. While helpful, the program does not programmatically integrate individual tribal enterprise with that of the Tribe and has always acted in role of lender of last resort for tribal applicants. The Bureau continues to view economic development in a narrow scope of entrepreneurship. They view preferentially, and lend technical assistance to, Tribes opening their own shops but do not consider farming or ranching or timber as economic development ventures on par with commercial sales projects. But these businesses are areas which Indian Country must often rely upon and requires technical assistance and base funding in which to begin operations which are proven successful.

You cannot have healthy, self-governed and economically stable communities if the community is viewed myopically or compartmentalized. Any stable community must not only know how to technically manage its resources but must also know how enterprise development and community economic empowerment can be utilized to optimize its own future. If you read the newspapers, it is certainly no front page news that this administration and Congress are both looking at the Small Business Administration as a target for tremendous budget cuts. There has

been a feeling in D.C. in recent years that whatever slack the Bureau's loan programs has provided has been, or will be, picked up by programs elsewhere, like the Small Business Administration and the Department of Commerce. Now the Small Business Administration is looking at significant downsizing, like other federal programs. The Bureau's loan, equity grant and economic development programs must be reinstated to previous funding levels – it is not only a trust responsibility but it is an absolute fiscal necessity for Tribes seeking both venture capital as well as advice for tribal economic development projects.

We suggest, in addition to increased funding across the board for economic development and tribal enterprise programs, that the Committee consider conducting oversight hearings that these budget cuts and the parallel budget cuts at the Small Business Administration will have on the future of the BIA's Indian economic development programs. A report by the General Accounting Office, in concert with these oversight hearings, would also be tremendously helpful in providing much needed insight and analysis to Tribes as well as the Bureau in the area of economic development policy.

NATIONAL ENERGY POLICY ACT PROGRAMS

Title 26 Programs: Tribal Energy Resource Regulation Grants

FY95 Recommendations	\$ 10 million
FY95 Appropriations	\$ 12 million
FY96 Recommendations	\$ 15 million

Briefly, the need for a working active Title 26 program is clear. The projects that Title 26 has funded are exciting and innovative. However, so much more needs to be done and so much more technical assistance is required to keep up with a field of energy development that is anything but static. Additional appropriations for technical assistance is not only advisable but absolutely required.

CERT recommends that the Committee consider conducting oversight hearings on providing Indian programs within the Department of Energy as well as the Environmental Protection Agency required budget set-asides for, at the very least, programs that statutorily allow for treatment-as-state tribal regulatory program authorization. If Tribes are to be treated "as states", the budgeting procedure should reflect this equity as well.

Office of Surface Mining Tribal Surface Mining Regulatory Program

FY96 Recommendations	\$ 2 million
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The Tribal surface mining regulatory programs under the Surface Mining and Reclamation Control Act (SMCRA) must be revived and funded to allow the coal resource Tribes full protection, regulation and management of their own coal resources. The balance of economic, cultural, and environmental interests can be achieved through tribally-operated surface mining regulatory bodies authorized and funded at adequate levels. The time for tribal regulatory authority over the surface mining taking place on reservations has come. The Office of Surface Mining is attempting to ready itself for this eventuality but is constricted by the wholly inadequate funding in which to do so. Funding for these regulatory programs is not just a

matter of fiscal management, it is a necessity. Tribes require training and program planning assistance. If these programs, like their counterpart environmental regulatory programs, are to be treated equal to state programs, the program must be funded accordingly. CERT recommends this program be funded at least \$ 2 million in FY 96.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR NATIVE AMERICANS**

FY95 Appropriations	\$ 34.5 million SEDS programs \$ 4.12 million Environmental Regulatory Programs \$ 8 million DOD Interagency
FY96 Recommendations	\$ 52 million SEDS programs \$ 8 million Environmental Regulatory Programs \$ 8 million DOD Interagency

The ANA programs reflect a policy framework, like the overall successful approach to Indian programs, which is universal in nature but is expressed in localized terms. In ANA program terms, self-sufficiency is defined as an ability rather than an end state of being. This approach to projects, transcending a one-dimensional view of Tribal development priorities, works. It provides resources to Tribes to do for themselves what needs to be done. And therein lies the beauty of this process-oriented program – in the process of achieving a tribally-defined end goal, Tribes themselves gain the knowledge and valuable experience of follow-through. This knowledge is not appreciated only in terms of any value placed on learning but is appreciated in tangible terms by building tribal infrastructure.

If Congress will assist Tribes to develop, protect and manage their own resources, we will continue to see tribal economies continue to emerge over time which are independent of continued annual appropriations and based on strong local control and true self-determination. However, a word of caution must be had as annual appropriations for Indian programs will never be completely unwarranted, only decreased to a level where tribal interests are still accounted for and the government's fiduciary obligation is discharged sufficiently. CERT recommends this program not only be reauthorized but appropriations passed at higher levels which are completely justified by the ANA programs' tremendous success rate in Indian Country. The anecdotal evidence is vast and persuasive. Nearly every new successful initiative in Indian Country has been, and continues to be, supported by ANA. These initiatives translate and deal effectively, as well as practically, with localized tribal needs.

The ANA Interagency program is one standout program which has managed to match ANA grantees with ANA funds and outside agency funding. In the long and successful ANA interagency program history, the funding ANA provides is time and time again matched and results in providing twice as much funding to worthy tribal projects. In addition, ANA grantees are able to leverage their ANA grant monies with other federal and/or private source funds. In the end, and almost more importantly, these projects present an often rare opportunity to grantees to mobilize local economic and local resources and new partnerships, with states, with municipalities, with private industry. An important by-product is the interagency policy and program coordination that results from this important ANA activity.

ANA grant fund projects not only address local practical need but facilitate growth, measurable in real economic and political terms. In the end, projects most often achieve all programmatic goals: strengthening self-governance and leadership, strengthening tribal institutions that plan and implement local development strategies, promote social systems and institutions necessary for healthy, self-sufficient tribal communities and promote development of stable, diversified tribal economies. Left to the Tribes, ANA grants and program approaches have been universally well-implemented and successful in creating the developmental balance Tribes have themselves utilized for centuries before contact and utilize now to govern appropriately, prosperously and wholistically.



900 Pennsylvania Avenue S.E. Washington, D.C. 20003 (202) 546-9404 Fax (202) 546-3741

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STATEMENT OF GAIASHKIBOS

NATIONAL CONGRESS OF AMERICAN INDIANS

BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS

FEBRUARY 16, 1995

INTRODUCTION

GOOD MORNING MR. CHAIRMAN, MR. VICE CHAIRMAN, AND DISTINGUISHED MEMBERS OF THE SENATE COMMITTEE ON INDIAN AFFAIRS. I AM GAIASHKIBOS, TRIBAL CHAIRMAN OF THE LAC COURTE OREILLES BAND OF LAKE SUPERIOR OJIBWA INDIANS, AND PRESIDENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS (NCAI). I AM HERE TODAY TO PRESENT TESTIMONY ON THE PRESIDENT'S FISCAL YEAR 1996 BUDGET REQUEST FOR INDIAN PROGRAMS AND THE IMPACT THIS REQUEST WILL HAVE ON INDIAN TRIBES. OVER THE YEARS INDIAN PROGRAMS HAVE TRADITIONALLY BEEN THE FIRST TO BE CUT, AND THE LAST TO BE FUNDED. THIS FACT IS ESPECIALLY DISHEARTENING AND FRUSTRATING GIVEN THE LEGAL AND MORAL OBLIGATIONS OF THE UNITED STATES TO INDIAN NATIONS AND PEOPLE.

THE FEDERAL-TRIBAL RELATIONSHIP

BEFORE I DELVE INTO THE DETAILS OF THE FY96 BUDGET REQUEST ITEMS, I WOULD FIRST LIKE TO REITERATE THE CONTEXT IN WHICH THIS BUDGET AND ALL FEDERAL ACTIONS MUST BE PLACED WHEN WE ARE DISCUSSING INDIAN AFFAIRS. IN NOVEMBER, THE AMERICAN PEOPLE VOTED FOR CHANGES IN THE WAY THE GOVERNMENT DOES BUSINESS. THE NEW MAJORITY SEEKS TO IMPLEMENT THE "CONTRACT WITH AMERICA" AS PART OF THIS CHANGE. I WISH TO REMIND THE COMMITTEE THAT INDIAN TRIBES HAVE HAD A "CONTRACT WITH AMERICA" SINCE THE EARLIEST DAYS OF THE REPUBLIC. THE UNITED STATES ENTERED THE MOST SACRED KIND OF CONTRACT POSSIBLE IN OUR

CONSTITUTIONAL SCHEME IN THE FORM OF TREATIES, AND INDIAN NATIONS HAVE A RELATIONSHIP WITH THE UNITED STATES NOT SHARED BY ANY OTHER SOVEREIGN IN THE NATION. WE ARE NOT STATES, WE ARE NOT COUNTIES, WE ARE NOT CLIENTS, WE ARE NOT CUSTOMERS, AND WE ARE NOT SIMPLY AN ETHNIC GROUP. WE ARE SOVEREIGN ENTITIES AND DEAL WITH THE GOVERNMENT IN A "GOVERNMENT-TO-GOVERNMENT" FASHION. THIS FUNDAMENTAL RESPONSIBILITY IS A LEGAL REALITY THAT CANNOT BE IGNORED OR FORGOTTEN.

THE ADMINISTRATION'S FY96 REQUEST AND PROPOSALS

THE NATIONAL CONGRESS IS WELL AWARE THAT THE NEW MAJORITY IN CONGRESS IS SEARCHING FOR WAYS TO DOWNSIZE THE FEDERAL GOVERNMENT AND TO MAKE GOVERNMENT MORE EFFICIENT AND EFFECTIVE IN ACHIEVING RESULTS. THE CLINTON ADMINISTRATION'S "NATIONAL PERFORMANCE REVIEW" ALSO SEEKS NEW WAYS FOR THE GOVERNMENT TO OPERATE IN A LEANER BUT NOT NECESSARILY MEANER FASHION. INDIAN TRIBES SHARE THESE GOALS AND BECAUSE INDIAN PROGRAMS HAVE BEEN TRADITIONALLY UNDER-FUNDED, TRIBES HAVE BEEN FORCED TO "DO MORE WITH LESS" FOR DECADES. BECAUSE OF THE INEQUITABLE FUNDING LEVELS FOR INDIAN PROGRAMS, ANY SAVINGS REALIZED AS A RESULT OF THE DOWNSIZING EFFORT SHOULD BE PASSED ON TO TRIBAL GOVERNMENTS TO COVER SERVICES DELIVERED AS WELL AS TO ASSIST IN BUILDING TRIBAL CAPACITY TO BETTER DELIVER SERVICES IN THE FUTURE.

I WOULD LIKE TO COMMEND THE COMMITTEE AND THE ADMINISTRATION WITNESSES THAT APPEARED BEFORE YOU ON TUESDAY FOR WHAT I VIEW AS A FRANK DISCUSSION ON THE FY96 BUDGET REQUEST AS WELL AS THE MANY RECURRING PROBLEMS INDIAN TRIBES CONTINUE TO FACE. AS THIS COMMITTEE KNOWS, INDIAN HOUSING CONDITIONS ARE POOR AND OF THE KIND FOUND IN THIRD WORLD NATIONS. AS SENATOR CAMPBELL NOTED MOST INDIAN HOUSING IS OVER-CROWDED AND DILAPIDATED AND DOES NOT ADEQUATELY SHIELD INDIAN PEOPLE FROM THE HARSH ELEMENTS. I WAS APPRECIATIVE OF THE TESTIMONY OF HOUSING AND URBAN DEVELOPMENT (HUD) SECRETARY CISNEROS, AND FOUND THE PROPOSAL TO BRING PRIVATE CAPITAL AND PRIVATELY OWNED HOUSING TO OUR RESERVATION COMMUNITIES LONG OVERDUE AND MUCH NEEDED. THE TESTIMONY OF INDIAN HEALTH SERVICE (IHS) DIRECTOR DR. MICHAEL TRUJILLO WAS ALSO COMPELLING REGARDING THE STATE OF INDIAN HEALTH, WHICH IS SIMILARLY POOR AND GETTING WORSE. AS WAS STATED BY DR. TRUJILLO, AND AGREED TO BY MOST ALL MEMBERS OF THE COMMITTEE, FUNDING BEYOND THE CURRENT REQUEST IS IN ORDER TO MEET THIS NATION'S ENDURING COMMITMENT TO THE EFFECTIVE DELIVERY OF HEALTH CARE, INCLUDING MENTAL HEALTH CARE, TO INDIAN PEOPLE. LASTLY LET ME SAY THAT I AM FULLY AWARE OF THE FUNDING AND INSTITUTIONAL CONSTRAINTS WITHIN WHICH THE BUREAU OF INDIAN AFFAIRS (BIA) OPERATES. KEEPING THESE CONSTRAINTS IN MIND, I

AM ALSO FULLY COGNIZANT OF THE ROLE THE BUREAU IS ASKED TO PLAY IN BRINGING REAL CHANGE TO INDIAN COUNTRY, AND THE ONGOING CRISIS IN TERMS OF CONTINUING AND UNMET NEEDS OF OUR TRIBES. THROUGHOUT THIS AND FUTURE BUDGETARY PROCESSES AND THE ONGOING STREAMLINING PROCESS, WE INTEND TO REMIND THE GOVERNMENT OF TRIBAL NEEDS AND THE CAPACITY OF THE TRIBES TO FUNCTION AND THRIVE IN ANY RESTRUCTURED BIA FRAMEWORK.

MR. CHAIRMAN, IF LEGISLATION IS FORTHCOMING CREATING "BLOCK GRANTS" TO THE STATES, NCAI STRONGLY URGES THIS COMMITTEE TO ENSURE THAT ANY SUCH BLOCK GRANT APPROACH INCLUDE A DIRECT TRIBAL GRANT AS WELL. AS HISTORY HAS SHOWN WITH OTHER FEDERAL BLOCK GRANT FUNDING MECHANISMS, INDIAN TRIBES HAVE NOT FARED WELL WHEN REQUIRED TO RELY ON THE STATES FOR FUNDING. WITHOUT SUCH DIRECT TRIBAL FUNDING, THE "GOVERNMENT-TO-GOVERNMENT" RELATIONSHIP WOULD BE RENDERED VOID, AND THESE CRUCIAL FEDERAL DOLLARS WOULD NOT MAKE THEIR WAY TO THE TRIBES.

IN LEGISLATION RANGING FROM THE CRIME BILL TO WELFARE REFORM, THE U.S. CONGRESS MAY OPT FOR FINANCING FEDERAL OR FEDERALLY-MANDATED PROGRAMS WITH BLOCK GRANTS. I SHOULD MENTION AND LEND OUR SUPPORT FOR THE INCLUSION OF TRIBAL GOVERNMENTS IN THESE AND ANY FEDERAL BLOCK GRANT PROPOSALS. WE SUPPORT, FOR INSTANCE, SENATOR INOUE'S EFFORTS TO INCLUDE TRIBAL GOVERNMENTS IN TITLE XX BLOCK GRANTS.

MR. CHAIRMAN, IT IS AGAINST THIS BACKDROP THAT I AM HERE TO PRESENT TESTIMONY ON THE BUREAU OF INDIAN AFFAIRS BUDGET. HOWEVER, BECAUSE NO PROGRAM STANDS ALONE IN INDIAN COUNTRY, I ALSO TAKE THIS OPPORTUNITY TO DISCUSS INDIAN HEALTH, EDUCATION, DEVELOPMENT, AND OTHER PROGRAMS CENTRAL TO AN UNDERSTANDING OF TRIBAL NEEDS.

BUREAU OF INDIAN AFFAIRS

THE REQUEST FOR THE BUREAU OF INDIAN AFFAIRS (BIA) FOR FISCAL YEAR 1996 IS \$2.36 BILLION DOLLARS, WHICH IS AN \$89 MILLION DOLLAR INCREASE OVER THE LEVEL ENACTED FOR FISCAL YEAR 1995, WHICH ROUGHLY TRANSLATES INTO A 3.9% INCREASE. ADJUSTED FOR INFLATION THIS INCREASE REPRESENTS A FUNDING LEVEL THAT IS STAGNANT AT BEST. THE THRUST OF THE REQUEST IS IN MAINTAINING SERVICES TO THE TRIBES, AND WHILE THERE ARE CONTINUING UNMET NEEDS FOR THE TRIBES, WE ARE PLEASED TO SEE THAT MAJOR REDUCTIONS ARE NOT REQUESTED. INDIAN TRIBES ARE AWARE OF THE CURRENT BUDGETARY CRISIS, HOWEVER MR. CHAIRMAN, AS A TRIBAL LEADER AND AS PRESIDENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS, I AM DISMAYED THAT TIME AND AGAIN FUNDING LEVELS REPRESENT "DAMAGE CONTROL" WITH NO MEANINGFUL APPROPRIATIONS LEVELS TO

IMPROVE SERVICES TO INDIAN COMMUNITIES.

OF THE \$89 MILLION INCREASE IN THE FY96 REQUEST, FULLY 20% OF THE TOTAL INCREASE, OR \$17 MILLION DOLLARS, REPRESENTS INCREASES IN "SPECIAL PROGRAMS AND OVERHEAD", "AREA OFFICE INCREASES", AND "CENTRAL OFFICE INCREASES". IN ADDITION, DESPITE AN OVERALL DECLINE IN FTEs BUREAU-WIDE, THE CENTRAL OFFICE FTE WILL ACTUALLY INCREASE BY 19 FTE POSITIONS. THIS RAISES SERIOUS QUESTIONS OF JUST HOW THE REALIGNMENT AND RESTRUCTURING WILL BE CARRIED OUT AND WHICH PROGRAMS WILL ULTIMATELY BENEFIT.

BECAUSE OF ITEMS SUCH AS THIS, THIS REQUEST MUST BE VIEWED AGAINST THE BACKDROP OF GOVERNMENT DOWNSIZING, AND THEREFORE THE "BIA STREAMLINING PROCESS" ITSELF MERITS DISCUSSION. AFTER EXPENDING MILLIONS OF DOLLARS AND FOUR YEARS OF TIME, THE "JOINT BIA/TRIBAL/DOI TASK FORCE ON BIA REORGANIZATION" FINALIZED ITS REPORT IN NOVEMBER, 1994. DESPITE THESE EFFORTS, THE INTERIOR DEPARTMENT AND THE BUREAU OF INDIAN AFFAIRS ANNOUNCED A "NEW" STREAMLINING PROPOSAL THAT IS SIGNIFICANTLY DIFFERENT THAN THE TASK FORCE REPORT RECOMMENDATIONS.

I ALSO BRING TO YOUR ATTENTION, MR. CHAIRMAN, THE FINDINGS OF THE "AMERICAN INDIAN POLICY REVIEW COMMISSION" WHICH FINALIZED ITS REPORT IN THE MID 1970'S. THE COMMISSION RECOMMENDED THE FORMATION OF A "DEPARTMENT OF INDIAN AFFAIRS" OR, ALTERNATIVELY, AN "INDEPENDENT INDIAN REGULATORY AGENCY" TO FULFILL THE TRUST OBLIGATION OF THE UNITED STATES TO THE TRIBES. JUST THIS PAST WEEK NCAI DELEGATES PASSED A RESOLUTION REAFFIRMING THE FINDINGS OF THE COMMISSION, AND STATING THAT THE OBLIGATION IS INCUMBENT ON THE ENTIRE FEDERAL GOVERNMENT. I ASK THE COMMITTEE TO BE COGNIZANT OF THIS AS YOU ENGAGE IN THE IMPORTANT TASK OF EVALUATING THE PERFORMANCE OF THE BUREAU OF INDIAN AFFAIRS.

WE ARE IN AGREEMENT WITH THOSE WHO INSIST THAT THE STARTING POINT FOR ANY STREAMLINING PROPOSALS SHOULD BE THE RECOMMENDATIONS MADE BY THE TASK FORCE, AND NOT THE RECENTLY PROPOSED BIA PLAN. THESE RECOMMENDATIONS INCLUDE A PLAN TO REDISTRIBUTE ANY SAVINGS BROUGHT ON BY DOWNSIZING, ESTIMATED TO BE \$28 MILLION, AND A PLANNED DIVESTITURE OF AREA OFFICES FROM THE RESPONSIBILITY FOR ADMINISTERING PROGRAMS WHICH THE TRIBES CAN AND SHOULD OPERATE ON THEIR OWN BEHALF.

THE LARGEST INCREASE IS AN ADDITIONAL INCREASE IN THE OPERATION OF INDIAN PROGRAMS (OIP), AND THESE PROGRAMS INCLUDE FUNDS FOR TRIBAL GOVERNMENT, HUMAN SERVICES, EDUCATION, PUBLIC SAFETY AND JUSTICE, COMMUNITY DEVELOPMENT, RESOURCES MANAGEMENT, TRUST

SERVICES, AND GENERAL ADMINISTRATION. PAYMENTS MADE TO SETTLE EXISTING LAND AND WATER SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS FOR LOST INCOME AND INTEREST ON TRUST ASSETS REPRESENT THE SECOND LARGEST ITEM SLATED FOR AN INCREASE OF \$74 MILLION.

OVER THE PAST SEVERAL YEARS, TRIBAL REQUESTS HAVE CENTERED ON FULLY FUNDED TRIBAL PRIORITY ALLOCATIONS (TPA) AND CONTRACT SUPPORT. WE WELCOME, IN GENERAL, THE TREND TOWARD MORE LOCAL AUTHORITY IN THE FORM OF THE TRIBAL PRIORITY ALLOCATIONS. THE TRIBAL BUDGET SYSTEM PRINCIPLES HAVE BEEN ACCEPTED BY TRIBES ACROSS THE COUNTRY, AND EMPHASIZE FUNDING INFLATION ON TPA BEFORE OTHER INCREASES. THOUGH INCREASED IN DOLLAR TERMS, BECAUSE OF INFLATION AND OTHER FACTORS THE TPA WILL ACTUALLY BE ERODED 2%, OR ROUGHLY \$10 MILLION DOLLARS.

AFTER MANY YEARS OF FAILING TO IMPLEMENT THE FUNDING PROVISIONS OF THE INDIAN SELF DETERMINATION ACT, WE APPLAUD THE FY96 REQUEST INSOFAR AS IT INCLUDES FUNDING PROVISIONS FOR SELF-DETERMINATION PROGRAMS AND, BUT GIVEN STATUTORY AND TRIBAL DEMANDS FOR GREATER SELF DETERMINATION AND SELF GOVERNANCE, WE BELIEVE THAT GIVEN CURRENT AND PROJECTED NEED, THE REQUEST IS UNDER-FUNDED BY AT LEAST \$10 MILLION.

INFRASTRUCTURE AND ECONOMIC DEVELOPMENT

AS THE BODY CHARGED WITH DEALING WITH THE MANY ISSUES AFFECTING INDIAN PEOPLE, THIS COMMITTEE KNOWS ALL TOO WELL THAT THE LACK OF QUALITY HEALTH, EDUCATION AND HOUSING OFTEN HAVE AS THEIR GENESIS THE LACK OF BASIC INFRASTRUCTURE: PHYSICAL, FINANCIAL, AND HUMAN. WELL BUILT AND MAINTAINED PHYSICAL INFRASTRUCTURE, A THRIVING FINANCIAL COMMUNITY, AND THE FORMATION OF HUMAN CAPITAL SKILLS ARE NECESSARY CONDITIONS FOR ANY SUSTAINED AND SUSTAINABLE LONG-TERM DEVELOPMENT OF RESERVATION ECONOMIES.

THE FY96 REQUEST DOES NOT REFLECT THESE NEEDS AS THE CONSTRUCTION BUDGET ALONE IS SLATED FOR A \$5 MILLION DECREASE. ALTHOUGH THE ACCELERATED DEPRECIATION AMENDMENTS TO THE INTERNAL REVENUE CODE MAY PROVE HELPFUL IN DRAWING INFRASTRUCTURE FUNDS TO RESERVATIONS, THE REQUEST DOES NOT MAKE ALLOWANCE FOR CURRENT NEEDS. THESE FACTORS, WHEN COMBINED WITH THE MINIMAL LEVEL OF FUNDS MADE AVAILABLE THROUGH THE COMMUNITY DEVELOPMENT ALLOCATION ADD UP TO A CONTINUED ABSENCE OF COMMITMENT TO LONG-TERM ASSISTANCE FOR WHATEVER SELF-SUSTAINING DEVELOPMENT EFFORTS THE TRIBES ENGAGE IN THEMSELVES. WE BELIEVE IT IS UNFORTUNATE THAT THE INDIAN DIRECT LOAN PROGRAM IS ZEROED OUT IN THE FY96 REQUEST, THE INDIAN GUARANTEED LOAN PROGRAM RECEIVES NO

INCREASE OVER ITS ALREADY DEFICIENT \$9.6 MILLION LEVEL, AND THE TECHNICAL ASSISTANCE FOR INDIAN ENTERPRISES FUNDING SIMILARLY RECEIVES NO ADDITIONAL FUNDING OVER THE ALREADY UNDERFUNDED \$1.9 MILLION. THESE FIGURES REPRESENT THE TOTAL ALLOCATION TO HELP STIMULATE AND MAINTAIN INCIPIENT INDIAN BUSINESSES AND, BY ANY STANDARDS, CANNOT FULFILL THE NEED FOR CAPITAL, GUARANTEES, AND TECHNICAL ASSISTANCE IN INDIAN COUNTRY.

IN ADDITION, THE ECONOMIC DEVELOPMENT ALLOCATION IN THE REQUEST IS PROPOSED TO RECEIVE \$115,000 LESS THAN THE FY95 ENACTED LEVEL. ONE EXCEPTION TO THIS TREND IS THE ALLOCATION OF \$4.8 MILLION TO UPGRADE FIRE AND SAFETY EQUIPMENT AND FACILITIES TO COMPLY WITH EXISTING STANDARDS. WE SUPPORT THE ALLOCATION, BUT ARE CONCERNED THAT OTHER FACILITIES UPGRADE AND MAINTENANCE MAY NOT RECEIVE THE ATTENTION THEY DESERVE.

INDIAN EDUCATION

THE MAJORITY OF INDIANS LIVING ON RESERVATION ARE SCHOOL-AGE CHILDREN WITH ENORMOUS EDUCATIONAL NEEDS. NCAI SUPPORTS THE TESTIMONY OF NATIONAL INDIAN EDUCATION ASSOCIATION (NIEA) WHICH WILL BE PRESENTED TO THE COMMITTEE THIS MORNING. EDUCATION IS THE FOUNDATION FOR FUTURE ACHIEVEMENT AND PROGRESS IN INDIAN COUNTRY AND IS THE CRITICAL FEATURE FOR THE FUTURE OF INDIAN TRIBES. THE ADMINISTRATION PROPOSES TO FUND THE BIA ADULT EDUCATION PROGRAM AT \$3.54 MILLION, AN INCREASE OF ONLY \$37,000 OVER THE FY95 ENACTED LEVEL. THIS AMOUNT IS TO FUND ONLY 90 TRIBES, ORGANIZATIONS, AND INSTITUTIONS. THE SCOPE AND IMPACT OF THIS REQUEST IS CLEARLY INSUFFICIENT TO ASSIST INDIAN TRIBES ACROSS THE NATION ACHIEVE ANY REAL PROGRESS.

THE BUDGET REQUEST FOR THE JOHNSON 'O'MALLEY PROGRAM HAS ACTUALLY DECLINED \$1.6 MILLION OVER THE FY95 ENACTED LEVEL TO \$22.75 MILLION. ASSESSMENTS MADE BY THE NIEA INDICATE THAT THE NEED FOR JOM SPENDING IS \$54 MILLION. IN TERMS OF FACILITIES OPERATION AND MAINTENANCE, THERE IS A PROPOSED \$4.4 MILLION INCREASE OVER THE FY95 ENACTED LEVEL, AND ALTHOUGH WE SUPPORT THE INCREASE, THE DEMONSTRATED NEED IS \$23.3 MILLION. WITHOUT A STRONG FACILITIES AND MAINTENANCE FOUNDATION, THE ABILITY TO NURTURE A LEARNING ENVIRONMENT IS SERIOUSLY DIMINISHED. IN LIGHT OF THIS, WE SUPPORT THE \$35 MILLION SLATED FOR SCHOOL CONSTRUCTION, A SIGNIFICANT INCREASE OVER THE FY95 ENACTED LEVEL. THOUGH WE APPLAUD THE INCREASE, THE REALITY IS THAT NO NEW CONSTRUCTION CAN BE UNDERTAKEN GIVEN THIS REQUEST. IN LINE WITH NIEA RECOMMENDATIONS, WE SUPPORT A LEVEL OF FUNDING THAT WILL ALLOW FOR THE CONSTRUCTION OF AT LEAST FIVE NEW SCHOOL STARTS PER YEAR, WHICH IS IN KEEPING WITH CURRENT DEMAND.

IN ORDER TO FOSTER DEPARTMENTS OF EDUCATIONAL THE TRIBAL LEVEL AND PURSUANT TO THE IMPROVING AMERICA'S SCHOOLS ACT (P.L. 103-382) WE STRESS THE NEED FOR FUNDING OVER AND ABOVE THE PROPOSED \$3 MILLION BECAUSE OF THE TRIBAL NEED TO DEVELOP AND MAINTAIN ADMINISTRATIVE CAPACITY TO CARRY OUT THE GOALS OF THE ACT. IN THE MAIN, THE FY96 BUDGET REQUEST IS FAVORABLE TO THE TRIBES AND TO TRIBAL PROGRAMS. WE ARE CAUTIOUS, HOWEVER, BECAUSE OF PENDING PLANS BY THE U.S. DEPARTMENT OF EDUCATION TO CONSOLIDATE OR TERMINATE SOME 30% OF THE 240 PROGRAMS THE DEPARTMENT NOW ADMINISTERS. IT IS OUR HOPE THAT THESE PLANS DO NOT INCLUDE THE OFFICE OF INDIAN EDUCATION, WHICH IS THE CENTERPIECE OF INDIAN EDUCATION IN THE DEPARTMENT AND THE VEHICLE FOR CARRYING OUT THE INTENT AND PURPOSES OF THE INDIAN SELF-DETERMINATION AND EDUCATION ACT OF 1972, ONE OF THE LODESTONES OF CURRENT FEDERAL INDIAN POLICY.

WE ALSO SEEK TO BREATHE NEW LIFE INTO THE INDIAN FELLOWSHIP AND EDUCATION PERSONNEL DEVELOPMENT PROGRAM, WHICH IS PROPOSED TO SUFFER A DECREASE IN FUNDING OF \$732, 000 IN THE FY96 REQUEST. WITHOUT RESOURCES NO NEW FELLOWSHIPS CAN BE AWARDED.

WE SUPPORT INCREASES IN THE EDUCATIONAL PROFESSIONAL DEVELOPMENT PROGRAM TO PROVIDE GRANTS TO HIGHER EDUCATION INSTITUTIONS TO WORK IN TANDEM WITH INDIAN ORGANIZATIONS, AND STATE AND LOCAL EDUCATION AGENCIES. THE AIM OF SUCH A PROGRAM IS TO PROVIDE MORE TEACHER, PROFESSIONAL, AND ANCILLARY PERSONNEL TRAINING, AND TO IMPROVE THE SKILLS OF INDIVIDUALS ALREADY IN SUCH POSITIONS.

THE 1990 CENSUS REPORT SHOWS THAT 46% OF ALL AMERICAN INDIANS AND ALASKA NATIVES OVER 25 YEARS OF AGE RESIDING ON THE RESERVATION DO NOT HAVE A HIGH SCHOOL DEGREE. IN LIGHT OF THIS, WE ARE CONCERNED WITH THE MODEST INCREASE IN FUNDING PROPOSED FOR INDIAN ADULT EDUCATION UNDER TITLE IX, PART A, SUBPART 3, THAT WOULD ENABLE LARGE NUMBERS OF INDIAN ADULTS TO INCREASE LITERACY SKILLS AND IN THE PROCESS EARN A "GENERAL EQUIVALENCE DEGREE" (GED). LASTLY, IN ORDER TO IMPLEMENT THE REFORMS APPLICABLE TO THE IMPACT AID PROGRAM IN P.L. 103-382, WE URGE AT MINIMUM THAT THE \$70 MILLION PREVIOUSLY CUT FROM THE FY95 APPROPRIATIONS BILL BE RESTORED. WITHOUT THIS BASE LEVEL OF FUNDING, THE MANDATES OF THE ACT CANNOT BE COMPLIED WITH.

ADDITIONAL BUDGET CONCERNS

A. THE INDIAN HEALTH SERVICE

THE INDIAN HEALTH SERVICE (IHS) HAS THE RESPONSIBILITY TO CARRY OUT THE FEDERAL OBLIGATION OF PROVIDING QUALITY HEALTH SERVICES TO APPROXIMATELY 1.4 MILLION AMERICAN INDIANS AND ALASKA NATIVES

LOCATED IN REMOTE RURAL AREAS AS WELL AS URBAN AREAS. THE CAPACITY OF THE IHS TO FULFILL THIS RESPONSIBILITY IS CONSTRAINED NOT ONLY BY DIRECT APPROPRIATIONS LIMITATIONS, BUT ALSO BY LIMITATIONS IN PHYSICAL AND TRANSPORTATION INFRASTRUCTURE. BECAUSE OF THESE FACTORS, THE COST OF DELIVERY IS SUBSTANTIALLY GREATER THAN IN THE NON-INDIAN POPULATION. THE FY96 REQUEST IS FOR \$2.3 BILLION, A MODEST 4.5% INCREASE OVER THE ENACTED FY95 LEVEL. WE BELIEVE CURRENT AND PROJECTED HEALTH DEMANDS WILL STRAIN THE IHS BUDGET AT THE FY96 LEVEL OF FUNDING, AND URGE FULL FUNDING OF THE IHS WITHOUT PREJUDICE TO OTHER INDIAN PROGRAMS.

OF GREATER CONCERN IS THE DISPROPORTIONATE IMPACT IN FTE REDUCTIONS THE IHS IS SCHEDULED TO INCUR IN THIS REQUEST. THE IHS IS TO SUFFER FULLY 230 FTEs IN FY96, WHICH AS PART OF THE OVERALL HEALTH AND HUMAN SERVICES DEPARTMENT (HHS) FTE DECREASE, REPRESENTS 8% OF THE TOTAL. THIS IS EVEN MORE SIGNIFICANT WHEN IT IS REALIZED THAT THE IHS BUDGET REPRESENTS ONLY 1.8% OF THE TOTAL HHS BUDGET. INDIAN TRIBES WERE IN A SIMILAR POSITION REGARDING THE FY95 BUDGET REQUEST, AND ONLY AFTER RAISING PRECISELY THIS POINT WAS THE FY95 BUDGET AUTHORITY RESTORED AND THE IMPACT OF FTE REDUCTIONS LESSENED. IF THE FY96 BUDGET REQUEST REMAINS AS IT NOW STANDS, WE ANTICIPATE MAKING SIMILAR DEMANDS ON THE ADMINISTRATION.

B. THE ADMINISTRATION FOR NATIVE AMERICANS (ANA)

BECAUSE OF ITS ALMOST UNPARALLELED SUCCESS IN ADMINISTERING INDIAN PROGRAMS, WE SUPPORT THE REAUTHORIZATION OF AND CONTINUED FUNDING FOR THE ADMINISTRATION FOR NATIVE AMERICANS (ANA). AS A MINI-AGENCY SERVING OVER 550 FEDERALLY-RECOGNIZED TRIBES, THE ANA ASSISTS TRIBES IN ACHIEVING ECONOMIC AND SOCIAL SELF-SUFFICIENCY THROUGH ITS CAREFULLY TAILORED PROGRAMS. THROUGH THE "NATIVE AMERICAN SOCIAL AND ECONOMIC DEVELOPMENT STRATEGIES" (SEDS) AND OTHER PROGRAMS, THE ANA MANDATE HELPS TRIBES BRING PRIVATE SECTOR EMPLOYMENT TO THE RESERVATION, ASSISTS IN PRESERVING NATIVE LANGUAGES, AND HELPS TRIBES FULFILL THEIR ENVIRONMENTAL ENHANCEMENT RESPONSIBILITIES. THE ANA IS AN INNOVATIVE, FORWARD-LOOKING AGENCY WHOSE FUNDING SHOULD BE MAINTAINED AND STRENGTHENED IN THE YEARS AHEAD.

C. INDIAN ELDERS

INDIAN ELDERS HOLD A SPECIAL PLACE IN INDIAN FAMILIES AND CULTURE, AND WE APPLAUD THE FY96 REQUEST AS IT PURPORTS TO RETAIN "OLDER AMERICAN PROGRAMS" (OAA) AT HOLD-HARMLESS LEVELS, INCLUDING THE SENIOR COMMUNITY SERVICE EMPLOYMENT TRAINING PROGRAM OF TITLE V. THE REQUEST ALSO PROPOSES A \$1.5 MILLION INCREASE FOR TITLE VI

("GRANTS FOR NATIVE AMERICANS") SERVING 227 ELDER NUTRITION PROGRAMS, THOUGH THE FULLY AUTHORIZED AMOUNT OF \$30 MILLION IS DEEMED NECESSARY TO MEET CURRENT NEEDS. NCAI ALSO SUPPORTS THE PROPOSED \$1.5 MILLION INCREASE FOR TITLE VII OF THE OAA ("THE VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES").

CONCLUSION

MR. CHAIRMAN, AS YOU KNOW, ATTAINING A LEVEL OF FUNDING THAT MEETS TRIBAL NEEDS AND IS CONSISTENT WITH THE FEDERAL-TRIBAL "GOVERNMENT-TO-GOVERNMENT" RELATIONSHIP IS A DAUNTING TASK. NCAI IS COMMITTED TO ENGAGING THE CONGRESS AND THE ADMINISTRATION TO ENSURE THAT BOTH OF THESE GOALS ARE MET, AND WE CAN BUILD A BRIGHTER FUTURE FOR INDIAN TRIBES AND INDIAN PEOPLE ACROSS THE NATION.

IN CONCLUSION, I WANT TO REITERATE THE PRE-EXISTING AND CONSTITUTIONALLY PRE-EMINENT "CONTRACT WITH AMERICA" THE TRIBES SHARE WITH THE FEDERAL GOVERNMENT. AS SENATOR INOUE HAS CLEARLY AND CORRECTLY STATED IN THE PAST, THROUGH THE TRANSFER OF MASSIVE AMOUNTS OF LANDS, INDIAN NATIONS HAVE "PRE-PAID" FOR THE SERVICES THE GOVERNMENT PROMISED TO PROVIDE. LET ME ALSO REMIND THE COMMITTEE THAT INDIAN PEOPLE ALSO PAY TAXES, INCLUDING FEDERAL AND STATE INCOME TAXES, EXCISE AND SALES TAXES, AND CONTINUE TO CONTRIBUTE TO STATE AND FEDERAL TREASURIES. FINALLY, LET ME SAY THAT AS A PROPORTION OF POPULATION, AMERICAN INDIANS HAVE HAD THE HIGHEST PARTICIPATION IN THE UNITED STATES MILITARY IN ALL WARS SINCE THE WAR FOR NATIONAL INDEPENDENCE, AND ALSO THE HIGHEST PROPORTION OF DECORATED VETERANS. IN FACT, AMERICAN INDIANS SERVED PROUDLY AND PAID THE SUPREME SACRIFICE IN WORLD WAR I, EVEN BEFORE BEING GRANTED CITIZENSHIP IN 1924. SO, MR. CHAIRMAN, AMERICAN INDIANS HAVE ALSO PAID IN YEARS OF SERVICE AND IN BLOOD.

WITH THAT, LET ME SAY THAT I AM PLEASED TO APPEAR BEFORE YOU THIS MORNING AND AM GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE.

* * *



NATIONAL CONGRESS OF AMERICAN INDIANS
900 Pennsylvania Avenue, S.E. Washington, D.C. 20003 (202) 546-9404 Fax (202) 546-3741

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April 11, 1995

Hand Delivered

Mr. Phil Baker-Shenk, Counsel
Committee on Indian Affairs
United States Senate - 838 SHOB
Washington, D.C. 20003

Re: Bureau of Indian Affairs Budget FY96

Dear Mr. Baker-Shenk:

On behalf of the National Congress of American Indians (NCAI), the oldest, largest, and most representative Indian advocacy organization in the nation, I submit for the consideration of the Committee the following information concerning the FY96 budget of the Bureau of Indian Affairs (BIA) and in particular a brief analysis of administrative, overhead, and other similar expenses associated with the Bureau's operations. As you know, the Congressional Research Service has prepared a series of reports for the Committee comparing Federal spending for Indian programs to Federal spending for non-defense Federal programs from 1975-1995. In unadjusted (current) dollars spending for both sectors grew, although funding for non-Indian programs grew faster. In adjusted (constant) dollars, spending for Indian programs decreased -- the perceived increases in actuality did not keep up with inflation. Spending for the entire nation continued to grow even when adjusted for inflation. (See United States Senate, Committee on Indian Affairs, "Budget Views and Estimates for FY 1995", March 8, 1995).

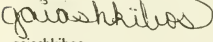
Determining the percentage of BIA administrative expenses with any certitude is nearly impossible given the structure of the BIA budget as provided. This task is made more difficult by the fact that BIA funds trickle down to tribes in many ways including priority funding for P.L. 93-638 contracts, education and housing funds distributed according to formula, grants, loans and other funding mechanisms. Based on available information and documents regarding the FY96 budget request,

Phil Baker-Shenk
Committee on Indian Affairs
April 10, 1995
Page 2

and in relation to the Operation of Indian Programs only, it is our estimate that administrative expenses in the Bureau represent *at least* 17% of the total budget, and in all likelihood are significantly higher. Our efforts to determine the exact percentage are hobbled by the intricacies of the budget document, what the BIA considers "administrative expenses" and the manner they choose to present this information. For instance, of the \$89 million increase in the FY96 request, 20% of the total increase (\$17 million dollars) are for increases in "Special Programs and Overhead", "Area Office Increases" and "Central Office Increases". In addition, despite an overall decline in Full Time Equivalents (FTEs) Bureau-wide, the Central Office FTE is proposed to increase by 19 FTE positions. When viewed against the streamlining proposals currently being debated, these increases are rightly viewed with concern.

We continue to analyze the information currently available to us and seek more detailed information on the BIA and other agency budgets. Thank you again for the opportunity to submit the enclosed information, and if we can be of assistance in answering any questions you or the Committee may have, please do not hesitate to contact me or Paul Moorehead of our staff at 546-9404.

Sincerely,



gaiashkibos
President

Enclosure - Attachments

Attachment One

Bureau of Indian Affairs Budget Fiscal Year 1996

1. Operation of Indian Program (OIP) - \$1,609,842 b
2. Administrative Expenses - \$261,404 m
3. Percentage of Administrative Expenses - .17%*

*These expenses are those that can be readily identified as administrative expenses from a reading of the FY96 budget request and accompanying documents. Additional administrative expenses, fees, charges, and/or other costs that may be associated with implementing Indian programs by the Bureau cannot be readily identified from currently available information and therefore are not included in this analysis.

* * *



NATIONAL INDIAN EDUCATION ASSOCIATION

121 ORONOCO STREET
ALEXANDRIA, VA 22314
PH. (703) 838-2870
FAX (703) 838-1620

TESTIMONY OF THE NATIONAL INDIAN EDUCATION ASSOCIATION
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
ON
PRESIDENT CLINTON'S FISCAL YEAR 1996 BUDGET REQUEST
FEBRUARY 16, 1995

Presented by Lorraine P. Edmo, Executive Director

The National Indian Education Association (NIEA) is pleased to appear before this Committee concerning the Administration's FY1996 budget proposals which affect Indian and Alaska Native education. NIEA will discuss programs directly related to American Indian and Alaska Native education in the Bureau of Indian Affairs and the Department of Education. Attached is a summary of our appropriation recommendations.

BUREAU OF INDIAN AFFAIRS

• Adult Education (BIA). Although the Adult Education Program is considered the most poorly funded of all Indian/Alaska Native education needs, funding for this program continues to be very low. The Administration proposes to fund Adult Education in FY1996 at \$3.54 million, a modest increase of \$37,000 over the FY1995 enacted level (in FY1995, this program received a slight \$2,000 increase over the FY1994 level). This amount would fund only 90 tribes, organizations and institutions. NIEA continues to advocate that all tribes should have adult education programs, and the development of a program which is formula-funded. At least \$6 million in FY1996, as a start, is requested for BIA adult education funds.

• Johnson O'Malley Program. The Administration has requested \$22.75 million for JOM, \$1.6 million less than the FY1995 enacted level. The real need in JOM is \$54 million. This number is calculated by multiplying the FY'95 student enrollment of 271,857 by \$200 per student. The actual per pupil expenditure is \$94 per student. This proposed per pupil amount is supported by the Northwest Indian Education Summit as well as the National

JOM Directors Association. Last year, the BIA had a 4.6% increase in JOM students in FY1995; in FY1996, there is an expected increase of at least 5%.

In addition, NIEA believes that JOM is the only federal Indian education program that vests authority in local Indian Education Committees for greater involvement in their children's educational process; therefore, by resolution, NIEA opposes transferring JOM to the Tribal Priority Allocations as proposed by BIA.

• Indian School Equalization Formula (ISEF) Funding. NIEA appreciates the \$17.9 million increase for ISEF as proposed by BIA. According to the BIA, the \$277.6 million budget would result in a Weighted Student Unit (WSU) of approximately \$3,008 (school year 1996-1997). However, according to organizations representing BIA funded schools, the WSU for FY1996 level would be approximately \$2,907, a \$101 WSU difference. Nevertheless, both figures fall extremely short of the 1991 National Blue Ribbon Task Force recommendation of \$3499 WSU. In accordance to our membership resolution, NIEA continues to support a WSU of \$3499.

Additionally, NIEA requests an update from the Secretary of Interior on the analysis of the BIA school system on the cost of achieving academic and dorm standards, and the feasibility/desirability of changing the method of financing from the current WSU formula method to a school-based budget system or other financial support system, as directed by P.L. 103-382, the Improving America's School Act.

• Family and Child Education (FACE) Program. The \$6.5 million request for BIA's early childhood development program is at the same level as enacted in FY1995. In FY1995, funding for this program was reduced by approximately \$1.1 million from its' FY1994 level. We continue to support an increase for this program.

• Student Transportation. NIEA supports the proposed \$28.5 million funding request for school transportation, a \$3.8 million increase over the FY1995 level, especially since there is a projected increase in enrollment in Kindergarten classes which will increase day school mileage. According to the BIA, this level would provide \$1.71 per mile. BIA also acknowledges that this level remains below the national average of \$2.34 per mile, that schools having transportation cost in excess of \$1.71 per mile use ISEP funds to make up the difference and that this increase would lessen the adverse impact on ISEP funding. As stated above, the ISEP funding level continues to fall short of the national recommendation. Use of these funds to make up another BIA shortfall is ludicrous and continues to make it impossible for these schools to function effectively. We request that the funding be increased so that BIA schools are funded at or above the national average.

· Solo Parent Program. The BIA wants to eliminate this program which last year received only \$72,000. We support continuation of the Solo Parent Program because there is a continuing need to support students who have become parents and wish to continue their education.

· Education Facilities Operation and Maintenance. NIEA supports the proposed \$4.4 million increase. However, this amount still falls nearly \$19 million below the projected need in this area.

· Administrative Cost Grants. NIEA supports the proposed \$5.6 million increase. However, there are at least four more schools that have converted to grant schools in FY'95 and two new schools have come into the system. We doubt this increase will be enough to cover the need here.

· Tribal Departments of Education. NIEA recommends at least \$3 million for tribal departments of education, as authorized by the Improving America's Schools Act, P.L. 103-382. We believe that the \$500,000 proposed by the Administration would not go far enough to assist tribes in planning and developing their own centralized tribal administrative entity to accomplish the intent of P.L. 103-382.

· Tribal Colleges/Postsecondary Schools. NIEA supports the testimony and requests of the tribal colleges and those of their individual member schools. Among the requests are funding at the fully authorized Indian Student Count (ISC) level of \$5820 for the Title I colleges, \$10 million for tribal college endowments, and \$2 million for emergency facility repair and renovations. TCCs have never received facilities construction or renovation/repair money from the BIA.

We need to point out that the national average for full time equivalent funding at mainstream community colleges is approximately \$7,000. The level of FTE funding for some special population colleges is approximately three times that which is provided to the tribal colleges.

NIEA also supports the position of the TCCs with regard to the Carl D. Perkins Vocational Education Act. The Federal government needs to consider the colleges' concerns during reauthorization of the Act, as American Indian issues are a Constitutionally-mandated Federal responsibility. NIEA supports the tribal colleges' position on the Perkins Act and asks that you refer to their written testimony for more detailed information.

· Graduate Scholarships. NIEA supports a funding level of at least \$3.5 million for the Special Higher Education Graduate Program which is currently contracted to the American Indian Graduate Center of Albuquerque, NM. The actual unmet need of AIGC

graduate students in Academic Year 1994-95 was \$8.4 million--a staggering amount. The BIA proposes only \$2.7 million which would barely make a dent in the need of more than 700 graduate students served by the program.

NIEA also supports continuation of the Special Pre-law Summer Program at the University of New Mexico. The need for this program is at least \$200,000.

- School Construction. We support the \$35 million proposed for school construction, a \$30.5 million increase over the FY1995 enacted level. However, although this funding level will provide for the completion of two projects, it will not allow for any new school construction. We recommend a funding level which would allow at least five new school starts per year.

- Education Facilities Improvement and Repair. NIEA does not support the proposed reduction of \$7.5 million from the enacted FY1995 level for Education Facilities Improvement and Repair since there is currently a backlog of over \$500 million in this program.

DEPARTMENT OF EDUCATION

Last year, NIEA addressed the Administration's budget in terms of re authorization of the Elementary Secondary Education Act. We are pleased that Congress passed P.L. 103-382, the Improving America's Schools Act of 1994. NIEA worked on many key provisions that law and we especially want to thank members of the Senate Indian Affairs Committee for their support in our efforts last year.

Overall, the proposed FY1996 President's budget is favorable for American Indian tribes and programs. It provides for small increases in some areas. We agree wholeheartedly with Secretary Riley's statement that, "[t]his is not the time to cut back on investments in improving education...Better education in this information age is essential." This is especially true for the nation's First Americans. The Secretary in his remarks on February 6, 1995, said that DOE is proposing to terminate or consolidate almost 70 or 30% of the 240 programs that the Department currently administers. We hope that he does not plan to assimilate or consolidate the Office of Indian Education with other divisions in the Department. The Office of Indian Education was established because of the special government-to-government relationships of the United States with Indian tribes in 1972 when Congress passed the Indian Self-Determination and Education Assistance Act to meet the unique needs of Indian people.

NIEA has learned that the Department is forming regional teams within the Department asking that OIE staff share responsibility for other work in the Department, such as migrant

education, Even Start, Chapter I, etc. We do not want to lose the real focus and intent of the Office of Indian Education, which seems to be happening in this reorganization effort. We oppose any piecemeal dismantling of this office.

• Subpart 2. Indian Fellowship and Education Personnel Development. NIEA also opposes the proposed \$732,000 reduction in the funding for the Indian Fellowship Program. Last year, we asked Congress to reinstate the Fellowship Program which was done. We asked for retention of the program because there has been major support for the program from tribes and American Indian students who are faced with dwindling financial resources for college. If OIE is allowed to reduce the fellowship program this year, there will only be money available to fund continuation grants from last year. No new fellowships could be awarded.

The Department proposes to increase the Educational Professional Development Program, under the Special Program for Indian Children, by \$2.9 million, bringing this allocation to \$5.9 million. The newly authorized program of the Professional Development will provide grants to higher education institutions in concert with Indian organizations, State Education Agencies, Local Education agencies, etc. It is aimed at providing more teacher training opportunities. Grants are also authorized to provide training to become administrators and ancillary personnel to improve the skills of individuals already serving these positions through in-service or pre-service training. There is a payback provision attached.

While we agree with the need for funding these kinds of teacher training programs in Indian Country, we don't agree with the Department effort to take funding away from needed fellowship resources for the other fields of study. We are also very concerned that the Office of Indian Education does not yet have the application packets out for the academic year 1995-96. These are normally sent out in early January. There are more than 1500 people on a waiting list for these applications. If these are not sent out in the very near future, Indian students will once again suffer the consequences.

• Subpart 4. Funding for Indian Adult Education, Title IX, Part A, Subpart 3. The Department is proposing only a \$11,000 increase for this program serving Indian Adults who are trying to increase their literacy skills in order to earn a General Equivalency Degree. NIEA requests that a funding level of at least \$10 million be made available for this portion of the Act. We continue to ask that funding be made available as part of any increase for a national survey of Indian Adult Education needs. This has been proposed for at least three years by the national Indian Adult Education Association. The 1990 Census shows that 46 % of Indian and Alaska Native people over the age of 25 who reside on reservation lands or Alaska Native villages do not have a high school diploma.

Comprehensive Technical Assistance Centers. Under the 1994 ESEA reauthorization, Congress created 15 new education megacenters or Comprehensive Technical Assistance Centers which are to provide assistance to the Department's grantees, including Title IX Indian grantees. Formerly these grantees were served by the Indian Education Technical Assistance Centers which are due to expire once the megacenters are operational.

We want to reiterate our concern that these 15 new Megacenters look at the critical needs of American Indian and Alaska Native students when they are designing their delivery systems. Special efforts need to be made to assure that American Indian people are hired to work with the Native populations of this country. Any subcontracts that are let for work with Indian people need to be awarded with the concern for Indian preference in hiring.

A recent evaluation of the Indian Education Technical Assistance Centers, done by Policy Studies Associates of Washington, DC, pointed out, "The Department of Education will need to forge a coherent system among a variety of TA providers including the comprehensive centers, regional education labs, Eisenhower Math and Science consortia and the National Diffusion Network to see that the needs of Indian people are addressed." We also want to assure that there is no break in service to the Indian clientele and ask that the IETAC contracts be extended until the comprehensive center doors are opened.

Impact Aid. NIEA supports the position of the National Indian Impacted Schools Association (NIISA) that Congress shall provide the necessary funding in FY1996 to implement the reforms applicable to the impact aid program as carried forth in P.L. 103-382. At minimum, the \$70 million previously cut from the FY'95 appropriations bill must be restored to insure that the programmatic changes intended to make the program more need based will occur. This would restore funding back to the FY1994 level.

The FY1995 Appropriation for impact aid is \$728 million. Over 2,000 local educational agencies enrolling over 20 million children are provided assistance under this program. Impact aid provides the basic program dollars to insure that the educational needs of federally-connected children are guaranteed. If these funds are reduced, most school districts will either be forced to increase local property taxes, look to the states for additional funding or make drastic program cuts. Certain heavily-impacted LEAs will be forced to turn to the BIA and Department of Defense to serve as the basic providers of educational programs due to the inability of local school districts to provide an education to children they consider to be a federal responsibility. Should this occur, the final cost to the federal government could be much higher than what is now allocated under Impact Act.

In summary, we want to thank you for your attention to the concerns of the National Indian Education Association. We are sorry that we were not able to get detailed budget figures for education programs operated by the Department of Health and Human Services; however, we will submit comments on this budget at a later date, in letter form to the committee.

ATTACHMENT

SUMMARY OF FY1996 BUDGET RECOMMENDATIONS
OF THE NATIONAL INDIAN EDUCATION ASSOCIATION
FOR THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

BUREAU OF INDIAN AFFAIRS

- Adult Education (BIA). Support \$6 million in FY1996, which compares to BIA request of \$3.54 million.
- Johnson O'Malley Program. Support \$54 million appropriation, which compares to the Administration's request of \$22.75 million.
- Indian School Equalization Formula (ISEF) Funding. Welcome proposed \$17.9 million increase which would provide about \$3,008/WSU, but support \$3499/WSU.
- Early Childhood Development. We support an increase for this program.
- Student Transportation. Support funding at the national average of \$2.34/mile instead of the BIA's level of \$1.71/mile.
- Solo Parent Program. Support continuation of this program.
- Education Facilities Operation and Maintenance. Support proposed \$4.4 million increase.
- Administrative Cost Grants. Supports proposed \$5.6 million increase.
- Tribal Departments of Education. Support proposed \$500,000 appropriation, but recommend \$3 million as authorized.
- Tribal Colleges/Postsecondary Schools. Support the request of AIHEC and its member organizations including: \$5820/ISC for the Title I colleges; \$10 million for tribal college endowments; \$2 million for emergency facility repair and renovations; and, position regarding the Carl D. Perkins Vocational Education Act.
- Graduate Scholarships. Supports \$3.5 million for the Special Higher Education Graduate Program and \$200,000 for the Special Pre-law Summer Program at the University of New Mexico.

- School Construction. Support proposed \$30.5 million increase; however, recommend a funding level which would allow at least five new school starts per year.

- Education Facilities Improvement and Repair. Oppose propose reduction of \$7.5 million. Real need is \$500 million.

DEPARTMENT OF EDUCATION

- Subpart 2. Indian Fellowship and Education Personnel Development. Opposes proposed \$732,000 reduction in the funding for the Indian Fellowship Program.

- Subpart 4. Funding for Indian Adult Education, Title IX, Part A, Subpart 3. Oppose proposed \$11,000 increase, requests that a funding level of at least \$10 million.

- Comprehensive Technical Assistance Centers. Make sure that Indian staffing is included and special needs of American Indians and Alaska Natives are addressed.

- Impact Aid. Support National Indian Impacted Schools Association position and restore funding back to the FY1994 level of \$798 million.



NATIONAL INDIAN EDUCATION ASSOCIATION

121 ORONOCO STREET
ALEXANDRIA, VA 22314
PH. (703) 838-2870
FAX (703) 838-1620

**SUPPLEMENTAL TESTIMONY OF
THE NATIONAL INDIAN EDUCATION ASSOCIATION
TO THE SENATE COMMITTEE ON INDIAN AFFAIRS
ON PRESIDENT CLINTON'S FISCAL YEAR 1996 BUDGET REQUEST**

FEBRUARY 24, 1995

On February 16, 1995, the National Indian Education Association appeared before this Committee to discuss American Indian and Alaska Native educational programs in the Bureau of Indian Affairs and the Department of Education. The supplemental testimony contained herein pertains to programs related to Indian education in the Department of Health and Human Services and additional concerns to such programs in the Department of Education.

INDIAN HEALTH SERVICE

• School-based Health Education Programs. Section 215 of the Indian Health Care Improvement Act authorizes the Secretary of IHS to award up to \$15 million in grants for tribes to develop comprehensive school-based health education programs for children on reservations age preschool through grade 12. The programs could be in public, contract, grant and private schools.

NIEA requests at least \$2 million to develop increased capacity and infrastructure within the IHS Health Education Program to focus on community/school based programs for teacher training, curriculum development and evaluation, community education, data management and standards development in comprehensive school health education

• Scholarships. There are three components of this program which assists American Indian and Alaska Native students who are pursuing health-related degrees. Section 2 of the Indian Health Care Improvement Act and subsequent amendments authorize IHS to conduct three interrelated scholarship programs to train IHS and tribal health personnel. These programs are: Section 103, the Preparatory Compensatory Program; Section 103P, the Pregraduate Program; and, Section 104, the Health Professions Program.

The Administration's FY1996 budget requests the same level of funding, \$11.5 million, for this program as available in FY1995. This would allow for no increase in the number of scholarships that could be awarded. Last year, there were 314 new awards made. This year, IHS is predicting that 220 new awards would be made. NIEA supports a funding level of a least \$13 million for this program in the FY1996 budget.

- Recruitment and Retention. In addition, NIEA supports continued and increased IHS funding for recruitment and retention programs in public health, social work, substance prevention and environmental health. These kinds of programs are located at the University of California/Berkeley, the University of Oklahoma, and the University of Hawaii.

- HIV/AIDS Prevention. The Centers for Disease Control and Prevention (CDC) issued a report in mid-1994 which showed that there were close to a thousand reported and verified diagnosed cases of AIDS among Native Americans. The report also showed that the growth in Native American AIDS cases between 1992 and 1993 was larger than any other ethnic group. An earlier CDC report on a national blinded seroprevalence survey estimated that in mid-1991 there were between 1200 and 4000 Native Americans with HIV infection. Unfortunately, there is no hard numbers as to how many Native Americans are infected with HIV. With these staggering numbers, there is a greater need for HIV/AIDS education and prevention in Indian country.

The proposed \$299,000 increase in FY1996 for HIV/AIDS Prevention is to provide for built-in cost increases in this program. Because of the disproportionate impact the HIV disease is having upon Indian country, NIEA recommends a significant increase in actual funding to all HIV/AIDS education and prevention programs within IHS. NIEA also urges IHS to take a stronger leadership role in insuring adequate care for Indian people living with HIV/AIDS.

DEPARTMENT OF EDUCATION

- Subpart 3. National Activities - Research, Evaluation, Data Collection and Technical Assistance. NIEA recognizes and supports the need for research, evaluation and data collection to look at federally-funded education programs from which American Indian and Alaska Native children benefit. The Department proposed to use \$967,000 of OIE funds for three studies on the following: (1) inclusion of American Indians in the Longitudinal Study of Schools; (2) augmentation of the NCES Early Childhood Longitudinal Study; and (3) evaluation of the Indian education components of selected Goals 2000 plans. We question why funds for these studies are not being utilized from the Office of Education Research and Improvement (OERI). The Department is requesting \$54.6 million more than the revised request for 1995. The total

request being \$540 million. NIEA has advocated for more consultation between OERI and the American Indian population.

NIEA is concerned that there is limited involvement in these studies by American Indian and Alaska Natives outside the Education Department. We are still waiting to see the results of previous studies paid for out of OIE funding beginning in FY1993. NIEA urges the Department to look at funding these studies through the OERI budget so that the proposed allocation could be used for other OIE projects.

- Safe and Drug Free Schools. NIEA concurs with the \$4.7 million request and recommends that the Substance Abuse Counselors line item in the BIA's School Operations be considered for funding since it would seem to enhance the Education Department's efforts at combating drug abuse in Bureau schools.

- Payment for Children with Disabilities. The Administration has requested \$20 million for this program, \$7 million less than the FY1995 enacted level. We request a level funding with the FY1995 level of \$27 million.

- Bilingual Education. NIEA concurs with the FY1996 request of \$26 million.

- Vocational Education. NIEA urges an increase in the tribal allocation for Vocational Education. The Administration proposes \$12.6 million in FY1996. These funds should be made available within the Department of Education for direct access to Indian Tribes and Indian Organizations.

NIEA supports the tribal college recommendations on the reauthorization of the Carl D. Perkins Vocational Educational Act that: the resources continue for the Indian vocational education program as provided for under Title I, Section 103 and that any changes to this Section require tribal consultation; the funding continue for the Indian vocational education program as provided for under Title III, Section 385; a new Tribally Controlled Community College program title is needed; and, an National Center for American Indian Vocational Education Research and Data Collection should be established.

- Libraries. We request an increase in the proposed \$1.6 million requested for the library program in order to make an positive impact on tribal library facilities.

- Alaska Native and Culture and Arts. NIEA concurs with NACIE that this initiative be funded at least \$ 1 million, the FY1995 enacted level, because language and culture are such an integral part of American Indian and Alaska Native livelihood. We feel that the Administration proposes zero funding negatively reflects on the Department of Education's commitment to Indian education.

In summary, the National Indian Education Association would like to thank the Committee for allowing us to submit additional concerns on the Administration's proposed FY1996 budget and for your attention to our overall concerns.



NATIONAL INDIAN EDUCATION ASSOCIATION

121 ORONOCO STREET
ALEXANDRIA, VA 22314
PH. (703) 838-2870
FAX (703) 838-1620

April 11, 1995

The Honorable John McCain, Chairman
Senate Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Senator McCain:

I apologize for the delay in responding to your request for photographs of Indian schools which are in a state of disrepair. I have requested photos from several different sources and so far I have only received one set. The enclosed photos are from the Lac Courte Oreilles Ojibwe School in Wisconsin.

This same school has worked with the Hannahville Indian Community School of Michigan to produce an inexpensive video which features a number of tribal schools in disrepair. I will try to get a copy of this video for your committee and send it to you when it arrives. I trust that this information will be helpful. We will try to collect more still photos for future reference when providing Congressional testimony. Please let me know if you have any questions.

Sincerely,

Lorraine P. Edmo
Executive Director

Enclosure

**FACILITY NEEDS ASSESSMENT
FOR
THE LAC COURTE OREILLES OJIBWE SCHOOL
MINNEAPOLS AREA
LAC COURTE OREILLES RESERVATION WISCONSIN**

APRIL 29, 1994



High School - Auto Shop Debris, Including Drums of Flammable Substances



High School - Administrative Area - Unrated construction does not comply with fire safety codes.



Gymnasium - Main Entrance - Improper grading results in soil erosion and allows water to drain into building.



Gymnasium - Exterior - Garage doors removed and improperly sealed.



Gymnasium - Exposed wiring, inoperable Exit sign.



Gymnasium - Typical condition at Toilet Rooms



Gymnasium - Typical condition at Interior Doors and Finishes.

P12



Gymnasium - Deteriorated Tile Floor with exposed asbestos containing Black Mastic backing.



Gymnasium - Toilet Rooms do not comply with Federal "504" Accessibility Standards.



Gymnasium - Debris filled, unusable Locker Room Areas.

P14



Parking Areas and Roadways - Typical deteriorated condition at paving. Split rail fence in disrepair.



Parking Areas and Roadways - Inadequate Emergency Vehicle Access to Cultural Grounds.



Electrical Equipment - Electrical Transformer in School Parking Lot.

TESTIMONY

THE PRESIDENT'S FISCAL YEAR 1996 BUDGET FOR INDIAN PROGRAMS

Submitted by the

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AFFILIATED TRIBES OF NORTHWEST INDIANS

to the

U.S. SENATE COMMITTEE ON INDIAN AFFAIRS

February 16, 1995, 9:30 a.m., 485 SR Bldg.

The Affiliated Tribes of Northwest Indians is pleased to provide the Senate Committee on Indian Affairs with its views on the President's 1996 Budget request for Indian programs.

As a general matter, the tribes in the Northwest are concerned about funding for health and natural resources programs, including rights protection funding. The tribes in the Northwest pioneered the Indian Self-Governance initiative and, therefore, are pleased that of the 42 member tribes in ATNI, 12 are now part of the Self-Governance project in the Bureau of Indian Affairs. We believe that budgeting based on Self-Governance compacts with federal agencies is the most direct and efficient method for the Congress to assure that funds intended for the use of tribal governments and tribal members reach their intended beneficiaries.

We know that the new Republican majority in both the Senate and House will be looking at ways to downsize government and to make existing governmental services more efficient and result oriented. We share those goals and believe that they are also shared by the Clinton Administration as evidenced by the National Performance Review now underway in all agencies of the Executive Branch. Because funding for Indian programs historically has not kept pace with funding for programs for the general public, we believe that savings accrued due to streamlining and downsizing should be passed on to tribal governments, both to cover the shortfalls in indirect costs and to increase the level of program support for

actual service delivery.

The details of the BIA's proposed 1996 budget have not been provided to us. Our comments and observations, therefore, are limited to general observations. Once we have had an opportunity to examine budget details, we will provide supplemental commentary. Based on what has been provided, we have the following comments.

Bureau of Indian Affairs

We question the BIA's devotion to the idea of restructuring and downsizing. Our preliminary review of the proposed budget for fy 1996 shows that the Central Office FTE will actually increase by 19 FTE. Our quarrel at the moment, however, is with the Department of the Interior and its proposed "streamlining" of the Bureau of Indian Affairs.

During the Bush Administration, former Secretary Lujan established the "Joint BIA/Tribal/DOI Task Force on BIA Reorganization." This Task Force was created to respond to tribal concerns about lack of consultation with tribal governments on proposals to reorganize and downsize the BIA. Representatives from tribes served by the 12 BIA Area Offices, along with representatives of the BIA and other agencies within the Department of the Interior, met regularly over a four-year period to develop consensus recommendations to present to the Secretary for

implementation.

After the expenditure of literally millions of dollars, and a great deal of time and energy on the part of all concerned, the Task Force report was finalized in November. Just days later, Secretary of the Interior Babbitt and Assistant Secretary for Indian Affairs, Ada Deer, announced a new "streamlining" proposal that is quite different in many respects from the one just completed by the joint Task Force. We are told that it was written by BIA staff during a 30-day period. This is simply unacceptable to Indian tribes who have worked so hard over the past four years to be part of the process of developing recommendations.

While the Department's new proposal borrows heavily from parts of the Task Force proposals, it is significantly different in many respects from those proposals, particularly with respect to the creation of so-called "Centers of Excellence." There is no adequately stated explanation as to why the Department rejected the results of its own labors over the past four years. The BIA has met with tribes in the various areas on the new proposal and, from all reports, the tribal response has been dismal at best.

We believe this Committee should suggest to the Department of the Interior and the BIA that it scrap the staff streamlining proposal and work with the Task Force recommendations. One important aspect of the Task Force proposals

includes a 14-part split of savings garnered by downsizing — one part would be designated for small tribes, one part to bolster contract support funding needs, and the remaining 12 parts to be divided equally among the various area offices. The estimated savings would be \$28 million. Another component of the Task Force report that deserves careful consideration is the so-called “Portland Plan.” The goal of the plan, developed in part with the Self-Governance program experience in mind, is to completely divest the Area Offices of responsibility for programs which the tribes can and should operate for themselves. The Portland Area Office, under the plan, will retain only those staff and functions essential to meeting its trust responsibility obligations and to providing multi-tribal assistance to those tribes under its jurisdiction.

Recognizing the constraints due to the deficit, we are pleased that the budget reflects an emphasis on maintaining services to Tribes. While many unmet needs continue to be unfunded, we are pleased that major reductions are not proposed. However, we understand that the Administration intends to recommend changes — which no doubt means reductions — to this budget. We hope the Congress ensures that if changes are proposed by the Administration, Tribes are given sufficient opportunity to review and comment on them.

Another area with which we are pleased, is with respect to contract support. Finally, after so many years of failing to implement the funding provisions of the

Indian Self-Determination Act, we note that the BIA has requested contract support funds for both new and existing contracts. This is a first for BIA. Despite the requirements of the Act, BIA has never before requested the funds needed to implement new awards and has failed to accurately report the needs to Congress as required. Historically, the BIA has not requested sufficient funds to meet 100 percent of contract support needs and the current estimate is about \$10 million short of actual program need.

Congressional add-ons and direction provided within the 1995 budget created a new Indian Self-Determination Fund and instructed BIA to implement the provisions of the Act. Even though an increase is recommended for Contract Support, we have been advised that the amount indicated will not be sufficient. We urge that BIA be held fully accountable for implementation and for reporting the true needs to the Congress as required by the Self-Determination Act.

An area with which we must express some concern is the Department's failure to adhere to the Tribal Priority Allocations in developing its budget. Over the past three years, Tribes nationwide consistently supported the Tribal Priority Allocations and Contract Support. The Tribal Budget System Principles which have been embraced by Tribes across the nation, call for a priority to be placed on funding inflation on Tribal Priority Allocations before other increases. Yet there is no adjustment for inflation, including pay costs. In all the TPA budget would slip 2%

behind inflation, or about \$10,000,000.

Indian Health Service

With respect to the Indian Health Service, there are several suggestions that ATNI would like to make to the Committee on ways to downsize the agency and to cut costs. First, the IHS uses a fiscal intermediary (FI) to review the work of well-paid and competent IHS staff. In Portland, all of the billings prepared by the IHS office are sent to the FI (Blue Cross/Blue Shield) which then approves payment. While there may have once been a reason for creating the FI, it no longer exists and the FI costs millions of dollars, to say nothing of time delays caused by the duplication of review.

As you know, the IHS, like all federal agencies, is subject to regular audits and to performance reviews of personnel. Thus, procedures are in place to determine when and if agency personnel are not competently managing the programs and personnel found to be incompetent can and should be replaced through regular personnel procedures. IHS is so seriously underfunded that even the most basic minimum level of health care cannot be delivered; therefore, ATNI seriously questions the continuance of the FI; this diverted money could be better used for direct health care.

Second, another area for cost cutting would be elimination of the

requirement that IHS patients Medicaid eligibility be determined. Since it is all federal money, ATNI questions why is it necessary to go through the administrative expense of transferring money among programs. In the Portland area, if the patient's health care bill is \$1,500 or more, the patient must apply for Medicaid; if the patient is found eligible, the IHS bills Medicaid through the states. The money then goes from the states to the IHS area office and then to the facility that performed the service. Since IHS manages IHS appropriated dollars directly, why is it that they cannot also manage federally appropriated Medicaid dollars. It would surely save the administrative costs of transferring funds from the states to the Area office and then to the local facilities.

Along these lines, ATNI is very concerned that proposals for block grants of health funds to states will have the unintended result of reducing funds available for Indian health programs. We strongly urge the Committee to make sure that any general health block grant proposal includes direct grants to tribal governments. We would very much oppose having to rely on the states for funding -- it would be contrary to U.S. treaty obligations to the tribes and contrary to the overall federal/tribal governmental relationship.

Finally, another proposal that ATNI would like the Congress to consider in the area of IHS cost-cutting is the proposition that IHS has professional health personnel on staff who are capable of performing accreditation reviews. It is not

necessary for the expensive outside accreditation agencies to continue to perform that function for IHS facilities. The millions of dollars paid to the outside accrediting agencies could much better be used to pay for direct health care costs. While IHS is paying these agencies, it is having to turn patients away. It is our view that these accrediting agencies deliberately change standards is to give themselves a reason to exist.

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Thank you for inviting ATNI to present its views. We will be supplementing these comments once the detailed budgets are available for our review.



MNI-SOSE Intertribal Water Rights Coalition, Inc.

Phone (605) 343-6054 • Fax (605) 343-4722
 PO Box 226, 514 Mt. Rushmore Rd.
 Rapid City, South Dakota 57709-0226



TESTIMONY TO
 THE CONGRESS OF THE UNITED STATES
SENATE COMMITTEE ON INDIAN AFFAIRS
 FEBRUARY 16, 1995

RICHARD BAD MOCCASIN, EXECUTIVE DIRECTOR
 MNI SOSE INTERTRIBAL WATER RIGHTS COALITION

On behalf of the Mni Sose Intertribal Water Rights Coalition, I thank you and the members of this Committee for the opportunity to provide this testimony on the need for continued financial assistance and Congressional support for tribal water resource management and development. I am Richard Bad Moccasin, an enrolled member of the Crow Creek Sioux Tribe of South Dakota and the Executive Director of the Mni Sose Intertribal Water Rights Coalition.

The protection and management of tribal water and other natural resources in the Missouri River watershed is one of the most critical priorities confronting the 28 Missouri River Basin Tribes. The Tribes, through the governing of the tribal homeland, control more than 15 million acres of land within the Missouri River Basin. The population of more than 100,000 tribal members is geographically distributed from the headwaters in Montana to the mouth of the Missouri River in Kansas and Missouri.

The Missouri River and its tributaries provide an immense natural resource. The Missouri River provides drainage to one-sixth of the Nation, and its 530,000 square-mile basin is over 2,300 miles long. There are 28 major reservoirs in the basin, including the third, fourth and fifth largest in the United States. Seven hydropower plants use the river for power generation, while 17 other power plants use the river for cooling purposes. Nearly 4 million people use the river for their water supply. The estimated 5 million recreational visits generated each year by Missouri River fisheries originate more than \$175 million in revenues.

Despite historical and legal rights to the water, the 22 Coalition Member Tribes have not participated fully in the benefits of the Missouri River water resources and its tributaries. Twenty-three percent of the 1,499,759 acres taken for the construction of the dams and reservoirs under the Pick-Sloan plan were lands of the Tribes. Although the federal government promised irrigation development for the Tribes and participation in the generation of electricity by the Tribes, the Tribes have not received these benefits.

Missouri River Basin Tribes, who have sacrificed a major portion of their homelands during the implementation of the Pick-Sloan plan with the promises of substantial economic benefits, now request that assistance be given to realize these gains. The Tribes have provided 349,566 acres to the construction of five hydropower dams in the upper Missouri River system with the pledge that the Tribes would gain access to low-cost electrical power. The Tribes still pay the highest electrical rates in the nation even though the Reservation residents have the least ability to pay.

The reservation populations in this area are listed by the Bureau of Census as the most impoverished area in the nation.

In an analysis conducted by the Northwest Area Foundation of the 1990 census comparing to the region's general population to American Indians residing in the Missouri River Basin found that: the incidence of American Indians over 18 years of age without formal education was 2.5 times higher the region's general population, American Indians experienced a poverty rate nearly three times higher, American Indian families were six times as likely to live in households without plumbing, and American Indian heads of household were more than three times as likely to be female. These social and economic conditions serve as barriers to the Missouri River Tribes in effectively managing their natural resources since available capital is diverted to subsistence of tribal members.

The tribal lands possess demands for water to service the development of these homelands, including water uses to serve critical environmental, religious, and cultural needs as well as to provide for planned domestic, agricultural, municipal and industrial uses.

For decades, tribal governmental control, management, utilization and jurisdiction over tribal water resources in the Missouri River Basin has been constrained by: inadequate financial resources; disregard or neglect of tribal legal entitlements to water by state and federal water resource agencies; and inappropriate and ineffective social, economic, organizational and governance mechanisms at the tribal, state, and federal levels.

In January of 1993, the Mni Sose Intertribal Water Rights Coalition was formally organized and recognized by the Missouri River Basin Indian Tribes. The Coalition was organized as a non-profit tribal organization: (a) to promote the health, education and welfare of the member Tribes, Bands and/or Communities through the development, assertion, enhancement and protection of their water rights; (b) to promote the economic growth throughout the lands of the member Tribes, Bands and/or Communities through the development, assertion, enhancement and protection of their water rights; (c) to plan, coordinate and prepare educational materials and training events to assist the members in the development, assertion, enhancement and protection of their water rights; and (d) to seek and obtain human and fiscal resources necessary to accomplish the corporate purposes of the Coalition. The Coalition has grown from 6 member Tribes to the present 22 Missouri River Basin Tribes.

As a result of tribal evaluations of current water rights issues, water management needs, 1994 Flood Control Act issues and present revenue sources for tribal governance and management systems, three long-term goals have been identified:

- a.) To assist Coalition Member Tribes in acquiring the necessary legal, technical, physical and economic administrative systems with which to effectively govern the use, management and protection of tribal water resources in the Missouri River Basin;

- b.) To enable the Coalition Member Tribes to acquire input into the management of water resources by state and federal agencies, which manage the Indian water resources, in order to enhance tribal control of tribal water resources;
- c.) To assist the Coalition Member Tribes to achieve the socio-economic benefits guaranteed by the Pick-Sloan Program through the assertion and development of their Indian water rights.

These goals, essential for tribal self-determination, have been utilized by the Mni Sose Intertribal Water Rights Coalition to serve as guides to assist Tribes in developing their water resource management capabilities. The long-term goals have been utilized to develop and implement strategies that will produce sustainable homelands for the Missouri River Basin Tribes.

The Mni Sose Coalition, on behalf of the 22 Missouri River Tribes, is requesting an additional Congressional appropriation to the Bureau of Indian Affairs for Resource Management and Water Resource Programs of six hundred thousand dollars in Fiscal Year 1996 for water resource data collection and analysis and to enhance water resource management capabilities through the Mni Sose Intertribal Water Rights Coalition. This appropriation will be utilized by the Mni Sose Coalition for which no funding request was included in the BIA Budget Request. The Mni Sose Coalition will be able to provide direct technical assistance to Missouri River Indian Tribes in the development of water resource management systems within their governing structures. The lack of adequate funding is most severe for smaller Tribes, who have yet to establish water resource programs. In a recent assessment conducted by the Mni Sose Water Rights Coalition, it was found that 12 of the 28 Missouri River Basin Tribes lacked water resource programs. There is fierce competition to develop the Missouri River water resources by municipalities, state governmental and federal agencies. The Tribes are requesting that the Federal Government respect their trust responsibilities and assist them in the protection, promotion and development of their precious water resources.

The Mni Sose Intertribal Water Rights Coalition Member Tribes are requesting an additional Congressional appropriation to the Bureau of Indian Affairs for Central Office Operations and Water Resource Program of \$250,000 in Fiscal Year 1996 for funding of the Mni Sose Intertribal Water Rights Coalition for operational purposes. The Missouri River Basin Tribes also lack access to water resource information, technology and expertise and request that support be given to the Mni Sose Intertribal Water Rights Coalition Technical Services Center. The Technical Services Center will provide water resource information, current water resources techniques and practices and expertise by experienced professionals to assist Tribes in water resource management and development. The Technical Services Center will serve as the foundation through which the tribal capabilities are developed and enhanced. The Center is the infrastructure for the Tribes to develop sustainable water resource management systems and water resource development strategies.

The Mni Sose Intertribal Water Rights Coalition Member Tribes are requesting an additional appropriation to the Water Resource Development Act of 1995 in the amount of \$500,000 under the Planning Assistance to States Program for the development of a comprehensive plan for Missouri River Basin Tribes to actively participate in the management of the Missouri River. The Missouri River Basin Tribes have been placed in a passive role in water resource management and development, not because of apathy or lack of desire, but due to the lack of technical expertise and financial resources necessary to fully participate and reap the benefits of this precious resource. The Mni Sose Intertribal Water Rights Coalition respectfully requests that this appropriation be provided to the Coalition to develop this comprehensive plan.

The Mni Sose Intertribal Water Rights Coalition Member Tribes are requesting an additional appropriation to the Department of Energy in the amount of one million dollars be allocated through the Energy Policy Act of 1992, Section 2603, to provide the Coalition with a demonstration grant to implement the Western Area Power Administration's Energy Planning and Management Program. The Missouri River Tribes were provided a hydropower allocation by Western Area Power Administration's Energy Planning and Management Program. The Tribes are required to be ready, willing and able to receive this power allocation by the year 2000. This program is in the development and implementation process. Missouri River Basin Tribes currently lack the technical expertise and financial resources required to develop the tribal governance and management structures necessary to receive this hydropower allocation by the year 2000. The Coalition has developed a technical team of experts, with experience and training to assist Tribes in preparing to receive this power.

**ROSEBUD SIOUX TRIBE
ROSEBUD, SOUTH DAKOTA**

**COMMITTEE ON INDIAN AFFAIRS
OVERSIGHT HEARING on FY96 Budget Request
February 16, 1995**

The Rosebud Sioux Tribe commenced contracting the uniform and dispatch units of the Rosebud Police Department on March 5, 1993. As of October 1, 1993 the Criminal Investigation and Detention components were additionally contracted. This was mandated by public concerns regarding civil rights violations, the number of patrolling personnel, law enforcement rapport with the public and the development of crime prevention programs.

As of the end of the first contract year, reported civil rights violations have been reduced by 90% and the number of patrolling personnel has doubled. Of the total number of calls responded to, approximately 14% were non-criminal assistance to citizens, such as aid to a stranded motorist during adverse weather conditions. The Rosebud Sioux Tribal Police Department and the public share a strong commitment to the development of crime prevention programs. A number of communities have implemented Neighborhood Crime Prevention programs and the Law Enforcement program, in conjunction with other Tribal agencies, have initiated a security watch in the Tribal residential areas.

The Rosebud Sioux Indian Reservation, located in south central South Dakota encompasses 1,263,800 acres. Our coverage extends over a five county area serving in excess of 18,000 Tribal members with a sizeable portion of the population located in twenty reservation

communities. Officers dispatched from headquarters may travel a distance up to 120 miles one way when responding to a call.

The Rosebud Sioux Reservation has been recognized as an economically depressed area since World War II and as with other economically depressed areas, it has an exceptionally high rate of crime. Violent crime on the Rosebud is at least five times greater than that of the state of South Dakota. The Rosebud Sioux Tribal Officers responded to a total of 20,850 calls during the contract year.

CURRENT NEEDS

We are requesting funding in the amount of three million, which exceeds the previous allocation to address current needs and in anticipation of perceived future needs in law enforcement on the Rosebud Sioux Reservation. As previously mentioned, the area of coverage and the volume of calls require additional personnel and equipment upgrade to maintain the quality of services provided to the people of the Rosebud Sioux Tribe.

With the additional funding, eight Patrolmen, four Dispatchers and two Criminal Investigators will be added to the force as well as life insurance and benefits for all of the Officers. these benefits currently are not available under the existing funding conditions. Equipment upgrade will include a variety of needed items such as; fingerprint kits portable breath testers, camera/recording equipment, uniforms, other miscellaneous investigation materials, and radio communications equipment is very crucial because the current system does not fully cover the area served. As a result, officers are out of touch with the department while on call to distant locations.

FUTURE NEEDS

The most significant perceived future needs for Law Enforcement on the Rosebud Sioux Reservation deal with the youth of the Tribe. In all of the reservation communities, concerns have been expressed about the young people and their problems. Violence among young people has increased and ranges from simple assault to murder. Gang organization is also spreading through the Reservation communities and has even reached the elementary schools. Fifteen percent of all arrests made during the last contract year were youth related. Since the Rosebud Sioux Tribe recognizes that the young people are the future of this Tribe these concerns are of the utmost importance.

Three of the additional Officers and one of the Criminal Investigators will be assigned to work with youth related crime and prevention programs. If the additional funding is provided, it is the intent to decentralize Law Enforcement to provide sub-stations in outlying communities. This will provide additional support through deterrence to the proposed youth related crime and prevention programs.

For the First time in the history of the Rosebud Sioux Reservation, the Tribe has undertaken the responsibility for Law Enforcement. This has been a monumental task and has only been possible with the support of the Tribal membership. The only way Tribal sovereignty can be fully realized is through the undertaking of this responsibility is with the continued support of this committee, we look forward to a long future in this endeavor.

R.S.T LAW ENFORCEMENT PROPOSED BUDGET FY 95-96

PERSONNEL COSTS

Position	Hourly wage	weeks	hours	BUDGET
CHIEF OF POLICE	\$19.00	52	40	\$39,520.00
CHIEF INVESTIGATOR	\$16.75	52	40	\$34,840.00
CRIMINAL INVESTIGATORS (4)	\$14.25	52	40	\$118,560.00
CAPTAIN	\$16.75	52	40	\$34,840.00
SERGEANTS (3)	\$14.00	52	40	\$87,360.00
PATROLMAN (32)	\$11.25	52	40	\$748,800.00
JAILORS (8)	\$8.50	52	40	\$108,080.00
LEAD JAILOR	\$9.00	52	40	\$18,720.00
DISPATCHERS (12)	\$8.50	52	40	\$212,160.00
LEAD DISPATCHER	\$9.00	52	40	\$18,720.00
ADMIN. ASST.	\$11.38	52	40	\$23,670.40
C.O.P. SEC.	\$8.50	52	40	\$17,680.00
C.I. SEC.	\$8.50	52	40	\$17,680.00
ASST. SEC.	\$7.00	52	40	\$14,560.00
RECORDS CLERK	\$8.50	52	40	\$17,680.00
ASSIS REC. CLERK	\$7.00	52	40	\$14,560.00
COOK	\$8.00	52	40	\$16,640.00
ASST. COOK	\$7.00	52	40	\$14,560.00

SUBTOTAL: \$1,556,630.40

FRINGE @ 13.75% \$214,036.68

OVERTIME @ 18.5% \$287,976.82

TOTAL PERSONNEL COSTS \$2,058,643.70

NON-PERSONNEL COSTS

TRAVEL	\$35,000.00
TRAINING	\$70,000.00
G.S.A VEHICLE RENTAL	\$300,000.00
VEHICLE INSURANCE	\$35,000.00
LIFE INSURANCE/BENEFITS	\$125,000.00
OFFICE SUPPLIES	\$30,000.00
RADIO/TELEPHONE COMMUNICATIONS	\$142,000.00
OFFICERS SUPPLIES	\$35,000.00
WEAPONS/EQUIPMENT	\$25,000.00
FOOD SERVICE	\$27,500.00
DETENTION SUPPLIES/LAUNDRY	\$9,500.00
C.I. SPECIAL ACCOUNT	\$10,000.00
SUB-STATION MISC.	\$29,356.30
<i>TOTAL NON-PERSONNEL COSTS</i>	\$873,356.30

COMMISSION COSTS

PER DIEM (2 MTG'S/MONTH @ \$100.00 MTGS.)	\$35,000.00
TRAVEL	\$20,000.00
SUPPLIES	\$13,000.00
<i>TOTAL COMMISSION COSTS</i>	\$68,000.00

TOTAL CONTRACT NEED: \$3,000,000.00

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Statement by

John W. Cheek
Acting Directoron Fiscal Year 1996 President's Budget Request on
Indian Programs within the Department of Education

Mr. Chairman and Members of the Committee:

I wish to express appreciation for being invited to submit written testimony before this committee. The Chair of the National Advisory Council on Indian Education (NACIE), Mr. Joseph Abeyta, extends his appreciation for allowing the committee to hear comments from this body of concerned Indian parents, students, professionals, and tribal leaders. As requested this testimony will cover the fiscal year 1996 budget request for Indian programs within the Department of Education. This testimony reflects the concerns identified by NACIE in consultation with Indian country.

The National Advisory Council on Indian Education was established in 1973 with the creation of the Indian Education Act. NACIE's primary charge is to provide recommendations to the Secretary of Education and the U.S. Congress on matters pertaining to the education of American Indian and Alaska Natives.

As you are aware Indian Education programs were reauthorized under the Improving America's Schools Act of 1994, Public Law 103-382. Programs for American Indian and Alaska Native students have increased modestly by \$1.4 million over FY 95 levels. New programs are being proposed while others are being eliminated in an effort to reach the Goals 2000 initiative. However, in trying to reach these goals, it should be remembered that not all American Indian and Alaska Native students learn in the same manner that non-Indian students do. To exemplify this the 1991 Indian Nations at Risk (INAR) report developed ten goals that specifically relate to the educational needs of American Indians and Alaska Natives. These goals are shown in a side by side comparison with the six national goals established by the Department of Education. (Appendix A) While it can be said that all Indian people would want their youth to excel to the highest levels possible as exemplified by these goals, they do not take into account the socio-economic conditions and culture of America's native population. The original Indian Education Act of 1972 was established to carry out elementary and secondary school programs specially designed to meet the special educationally and culturally related academic needs of Indian students. The conclusion that can be drawn from this is that American Indian and Alaska Natives can learn as well as non-Indians when given the opportunity to determine their own educational destinies. To the extent possible and

with forethought given to the unique relationship between Indian Nations and the Federal Government, it would be appropriate to provide adequate consultation with NACIE, Tribes and Indian entities when charting a course that moves Indian students toward the Year 2000. In this vein, consultation with Indians in determining the programs and FY 96 budget proposal have been limited.

The National Advisory Council on Indian Education would like to comment on the specific sections of the FY 96 Indian Education budget as they relate to American Indians and Alaska Natives. Appendix B shows FY 94-96 funding for the Office of Indian Education.

Subpart 1 - Grants to Local Educational Agencies - \$60.6 million

NACIE request an additional \$2 million to be added to the FY 96 request.

Subpart 1 funds make up 70 percent of Indian Education Act dollars. NACIE requests the additional funds since the number of students being served in FY 94 increased by 15,000 from the previous year total of 394,000 to over 409,000. NACIE is concerned that the proposed elimination of the Indian Technical Assistance Centers will have a negative impact on small programs that lack the expertise and funds to meet the new program requirements as outlined for Indian Education programs under Title IX, Grants to Local Education Agencies.

Subpart 2 - Special Programs for Indian Children - \$14 million

NACIE Requests an additional \$5 million to cover the new authorities of the Improving America's Schools Act i.e., Gifted and Talented Programs; American Indians Postsecondary Economic Development Scholarships; and the American Indian Teacher Training Program.

NACIE requests an additional \$1 million be added to the Indian Fellowship Program.

Under Subpart 2 there four unfunded authorizations that NACIE requests to be funded. These programs include: Gifted and Talented Program; Grants to Tribes for Education Administrative Planning and Development; American Indian Postsecondary Economic Development Scholarships; and the American Indian Teacher Training. These programs, probably more than any other, would have a direct bearing on tribes and their efforts at self-determination. When NACIE inquired with an Office of Indian Education official regarding the non-funding of one of these programs, the response was that they did not ask for it. NACIE would like to officially place that request now on behalf of American Indians and Alaska Natives.

In reference to the Indian Fellowship program, the need has never met the demand. The Indian Fellowship Program is being reduced funding by \$732,000 in FY 96. With this reduction it is doubtful that any new Indian Fellowships will be awarded. The Committee should keep in mind that the fellowship program is the only national Indian fellowship program that is not strictly targeted to Federally recognized tribal members.

NACIE's position is that this program should not be eliminated as was attempted in FY 94.

Regarding the Gifted and Talented Program that was only funded in FY 1990, it is regretful that the Department made such an effort to evaluate the measure of giftedness in Indian students but failed to carry through in establishing programs for gifted students beyond the report. A publication resulted from the study titled Identifying Outstanding Talent in American Indian and Alaska Native Students which set standards that could be used in identifying Indian students who may in fact be gifted, but due to cultural differences are often misdiagnosed as educationally deficient. The study also made several recommendations that NACIE concurs with. This area should be considered for further funding since its implementation could assist the Department's efforts at high standards for all students.

Several other programs are being eliminated, however, under Subpart 2. These programs comprised 51 percent of Subpart 2 funds in FY 95. These include: Educational Services for Indian Children; Planning, Pilot, and Demonstration Programs; Gifted and Talented Program; Educational Personnel Development; and Indian Controlled Schools. NACIE regrets the elimination of the Planning, Pilot and Demonstration programs. These programs targeted at-risk youth who are at the greatest risk of dropping out of school. These programs were local community-based efforts by tribal organizations that best knew the approaches needed to effectively deal with the problems of Indian youth.

The Educational Personnel Development program provided the opportunity for American Indian and Alaska Natives to become teaching professionals in educational fields and give back to the Indian community if they so desired. However, the prospects of increased funding in a new professional development program is intriguing given the possible benefits for American Indians in rural settings. The payback stipulation being required under Title IX was an earlier recommendation from NACIE for the fellowship program only.

Subpart 3 - Special Programs for Indians Adults - \$5.4 million

NACIE requests an additional \$5 million to bring dollars more in line with Bureau of Indian Affairs Adult Education Programs. This increase would equal one half of the Bureau's effort toward educating Indian adults. Subpart 3 dollars also must be used for members of non-federally recognized tribal members while Bureau funds do not. NACIE is pleased that the program targeting Indian adults has not been eliminated in FY 96. A modest increase of \$11,000 will not greatly increase program effectiveness as would a \$5 million increase. The critical element of this program is that most of the applications awarded go to primarily tribal or Indian organizations. Adult American Indians and Alaska Natives are less intimidated and more likely to participate when educational programs are offered by their peers.

National Activities - Research, Evaluation, Data Collection and Technical Assistance - \$967,000

The Council is enthusiastic that the Department is requesting \$967,000 to conduct research, evaluate federally assisted education programs from which Indian children and adults benefit, and collect and analyze data on the educational status and needs of Indians. We are very concerned, however, that the \$13 million being requested by the Office of Educational Research and Improvement (OERI) under Section 3122 and 3141 National Activities or the \$192 million requested under OERI's research, statistics or assessment categories would not be the appropriate agency to cover such costs. As specified in the P.L. 103-382 and the FY 96 proposed budget this amount is being funded with Indian Education funds under National Activities. The main concern is that such evaluations have limited involvement by American Indians and Alaska Natives outside the Office of Indian Education and the results of such evaluations are rarely disseminated to the general Indian population. Simply gathering data on Indians does not take in account the language diversity of several hundred tribal entities. Logic would have it that this assessment would need to occur before any major changes are made in the overall structure of Indian education programs, which have been essentially the same since 1973. We would concur with this proposal provided NACIE, or task force of American Indian/Alaska Native researchers are utilized as consultants to assist the work of OERI. NACIE's mandate is broad enough that expert guidance could be utilized on OERI's behalf.

The following is an overview of new programs for American Indians and Alaska Natives as contained in Title IX and NACIE's response to each in bold.

- o Promoting high standards for all students as an integral part of the broader educational reforms under way in the States and localities.

NACIE is in support of the Department's initiatives to promote high standards for all students attending America's schools. This approach to set standards provides a benchmark for states to align state goals with national initiatives if a state so chooses. The same criteria must be established for Indian tribes and organizations as well with attention paid to the special and unique educational needs of Indian people. Goals established through the Indian Nations at Risk Task Force report should be utilized in structuring programs for Indian people.

- o Promoting more State responsibility for the education of Indian children through State educational agency review of formula grant applications.

NACIE is concerned that the Department will lose sight of the unique relationship that exists between Indian nations and the Federal Government should states be given more authority over education programs for Indians. The Department of Education is

in part providing educational services as a commitment and recognition of the Federal Government's moral and legal obligation to Indian nations. Tribes exist as nations which enable them to deal directly with the U.S. Government. This government to government relationship is the very essence that establishes Indian people as political equals with the Federal Government. At the very least Indian tribes and Indian organizations should be given the option of whether they prefer to deal directly with the State or Federal Government on all matters dealing with education.

- o Authorizing a new Demonstration Grants program, which consolidates four small activities authorized by the prior statute. These grants support projects designed to develop, test, and demonstrate the effectiveness of services and programs for improving educational opportunities and achievement for Indian children. (FY 96 Proposed Budget of \$6.5 million)

Provided these programs allow continued support to primarily Indian and tribal organizations, NACIE concurs with the authorization of this program.

- o Permitting LEAs and tribes, with the written approval of the Indian parent committee, to combine Indian education funds with other State, local, and Federal funds in ESEA Title I, school wide programs. Title I authorizes schools with at least 50 percent poor children to operate school wide programs that use Title I funds, in combination with other Federal, State, and local funds, for improvements that benefit all enrolled children, instead of children singled out for services.

Again NACIE concurs as long as LEAs and Tribes have the option of establishing school-wide programs. Presently there is a lot of misinformation in the field that this initiative is a requirement. This is due primarily to little if any dissemination of accurate information from the Office of Indian Education. The Department should bear in mind that initially Indian Education Act funds had a provision that allowed funds to be supplemental and not supplanted in providing educational programs for Indian people. NACIE's main concern is that by co-mingling these dollars, the intent of the Indian Education Act is impeded. NACIE's fear is that this single act could lay the groundwork for eventual absorption or elimination of Indian Education programs by other Department of Education programs.

- o Phasing out the current Indian Education Technical Assistance Centers, with their functions absorbed by the comprehensive regional assistance centers authorized in Title XIII of the new Elementary and Secondary Education Act. The consolidation of technical assistance centers will provide States, LEAs, tribes, and others with assistance that cuts across Federal programs and addresses the needs of entire schools or districts.

NACIE regrets the phase out of the Indian Technical Assistance Centers primarily because the Centers are the only vehicle for ensuring that LEA's receive the technical

assistance needed to ensure meeting the intent of the Act. The ITACs should be allowed to continue as long as necessary to ensure that grantees have the technical assistance needed. NACIE recommends that the ITACs be fully involved in providing technical assistance to formula grantees and the training of Comprehensive Center personnel. NACIE is concerned with the definition of Significant Indian Population that is being used to determine where the Comprehensive Centers will be located. The definition needs to evolve from a matrix of American Indian and Alaska Native characteristics and not simply based on the highest concentration of Indians in a given area. NACIE would be willing to assist the Department in establishing a fair and accurate definition of Significant Indian Population.

- o Requiring individuals receiving funding under the Professional Development and Fellowship programs to perform related work that benefits Indian people, upon completion of training, or to repay all or a part of the cost of training.

NACIE pushed for this amendment in earlier years to ensure that only personnel committed to working with American Indians and Alaska Natives upon completion of the program receive the training provided under this authorization.

- o Responding to the critical need for Indian education research and evaluation by authorizing a new program of research, evaluation, data collection and related activities.

The Department of Education is only now beginning a concerted effort to collect research data on the current educational status of American Indians and Alaska Natives. The first dollars appropriated for this effort were made available in FY 94. The FY 96 budget shows a dramatic increase to \$967,000 from the \$325,000 expended in FY 94 and 95 to expand research activities through its Office of Educational Research and Improvement. NACIE would like to see these dollars originate from OERI since they set the standards needed for reliability of evaluation data. The issue of self-identification of Indian people needs further clarification as well.

Other FY 96 proposed budget initiatives within the Department of Education affecting American Indians and Alaska Natives

- o Goals 2000: Educate America Act - \$4.6 Million

The FY 96 budget proposes Goals 2000 activities by the Bureau of Indian Affairs. NACIE concurs that the standards being promoted by the Department should be government wide and national in scope. Since these funds originate from the Education Department it would be appropriate and meaningful if representatives from the Office of Indian Education and NACIE provide assistance and guidance in the Goals 2000 initiative.

- o Title I: Education for the Disadvantaged - \$41.3 million

NACIE concurs with the 96 request for this initiative.

- o Eisenhower Professional Development - \$3.7 Million

NACIE concurs with the FY 96 budget request.

- o Safe and Drug Free Schools - \$4.7 million

NACIE concurs with this amount and would make a recommendation that the Substance Abuse Counselors line item in the Bureau's School Operations be considered for funding since it would seem to enhance the Education Department's efforts at combating drug abuse in Bureau schools.

- o Basic Support Payments - \$318.1 million
Construction - \$5 million

NACIE concurs with this request.

- o Payment for Children with Disabilities - \$20 million

NACIE concurs with this proposed FY 96 budget item, even though the FY 95 request under this section was over \$27 million.

- o Bilingual Education - \$26 million

NACIE concurs with this FY 96 budget request. The issue of language equitability is of the utmost concern to the Council and is promoting plans to increase its visibility. NACIE recommends being consulted regarding any proposal involving language of American Indians and Alaska Natives. This would be consistent with NACIE's mandate of providing recommendations to the Secretary on program affecting all American Indians and Alaska Natives.

- o Education of the Homeless Children and Youth - \$100,000

NACIE concurs with this line item and would like to request additional funds to combat this problem.

- o School to Work Opportunities - Approximately \$2 million

NACIE proposes increasing the set-a-side amount under the School-To-Work initiative from .5 percent to 1 percent. This would double the average amount (\$75,000) that

tribal organizations would be able to work with up to \$150,000. While the proposed budget reflects an overall increase NACIE is concerned that the demand will far exceed dollars available. NACIE assisted in setting up the initial planning for this program by informing planners of the affect it would have on Indian tribes and organizations. This budget request represents a 75 percent increase over the first year (FY 94) budget of \$500,000 and an increase over the \$1.25 million FY 95 budget. The Department's FY 96 budget proposal indicates that 40 states could be funded under this program. NACIE feels the proposed budget included a major oversight in designating states as the recipients of these funds. Our position is that the entities to be funded should have been designated as Indian Tribes, Indian organizations, Tribally Controlled Community Colleges, Indian Vocational Schools, Education Professionals, Indian Students, in cooperation with local School to Work initiatives. The original intent of the law in designating an Indian set-aside, as specified in section 221 of P.L. 103-239 was to make funds directly available to Indian tribes and organizations.

o Vocational Education - Approximately \$12.6 million

NACIE is in support of the proposed FY 96 budget request but would like the committee to look at increasing the dollar amount. NACIE regrets moving these dollars for distribution by the states. Some tribes are still working toward a working relationship with states where they are located. Issues such as taxation, natural resources, Indian gaming, and other issues are what distinguish tribes as governmental entities with direct sovereignty status with the Federal Government. NACIE would rather these funds be made available within the Department for direct access to Indian Tribes and Indian Organizations. In reference to the reauthorization of the Carl Perkins Vocational Education Act NACIE would like to submit the following recommendations:

1. NACIE fully supports the continuation of Indian vocational education program resources as currently provided under Title I, Section 103 for "Indian and Hawaiian Native Programs" under the Carl Perkins Vocational and Applied Technology Education Act of 1990, as amended. NACIE does not support any changes to this Section without adequate consultation and advocacy by Indian Tribes.
2. NACIE supports the continuation of Indian vocational education program funding for tribally controlled vocational institutions presently made available under Title III, Section 385. The institutions include United Tribes Technical College of Bismark, N.D. and Crownpoint Institute of Technology at Crownpoint, N.M. NACIE supports program access for these tribal colleges as per initial intent for an entitlement process versus a discretionary grant renewal process to fund these institutions.

3. NACIE supports a new program title that would accomplish the following purposes:

a. Support Tribally Controlled Community College institutions in addressing comprehensive economic development planning by tribal colleges in a manner similar to that provided under Title IV, Section 401 "Tribal Economic Development." (Tribal Economic Development and Technology-related Education Assistance Act of 1990.) Estimated cost are \$500,000 per tribal college.

b. Support Tribally Controlled Community College institutions in addressing training, instructional, facility, equipment, and administrative costs for Indian vocational education programs. Annual appropriations are estimated at a minimum of \$500,000 per Tribal college.

4. NACIE supports the establishment of an National Center for American Indian Vocational Education Research and Data Collection.

- o Special Education - \$33.4 million

NACIE in general supports this FY 96 budget request.

- o Vocational Rehabilitation - \$10.6 million

NACIE in general supports this FY 96 budget request.

- o Libraries - \$1.6 million

NACIE concurs with the budget being requested but feel that the amount going to library programs is small enough to make little impact on tribal library facilities. If the Department is truly committed to technological advancement across the board then this budget item should be increase accordingly.

- o Alaska Native and Culture and Arts - \$0

NACIE requests that this initiative be at least level-funded comparable to the FY 95 amount of \$1 million.

Language and Cultural are an integral part of American Indian and Alaska Native people and should be reflected in the Department's commitment to Indian Education

In Closing, the National Advisory Council on Indian Education would like to thank the committee for allowing us to present testimony on the Fiscal Year 1996 Department of Education Budget. We would be happy to respond to any of the issues addressed in our testimony.

JOHN W. CHEEK
2604-D S. Arlington Mill Drive
Arlington, VA 22206

EDUCATION

- M.ED. (July, 1988) in Public School Administration, Northeastern Oklahoma State University, Tahlequah, Oklahoma
- M.ED. (December, 1979) in Art Education, Oklahoma State University, Weatherford, Oklahoma.
- B.A. (May, 1976) in Commercial Art, Weatherford, Oklahoma
- Oklahoma Standard Teaching Certificate, K-12 ART 125500S

EMPLOYMENT

- Acting Director, National Advisory Council on Indian Education, Washington, DC, December, 1994 to present.
- Special Assistant to the Executive Director, National Council on Indian Education, Washington, D.C., January, 1991 to November, 1994
- Education Program Specialist, National Advisory Council on Indian Education, Washington, D.C., January 1989 to December, 1990
- Educational Specialist, ORBIS Associates - Resource and Evaluation Center I, Washington, D.C., September, 1988 to January, 1989
- Project Trainer, Oklahoma Council for Indian Education, Project R.I.S.E. (Recognizing Indian Student Excellence), Tulsa, Oklahoma, July, 1987 to June, 1988
- Title VI-A Indian Education Director, Norman Public Schools, Norman, Oklahoma, July, 1986 to June, 1987
- Title IV-A Indian Education Advisor, Oklahoma City Public Schools, Oklahoma City, Oklahoma, August, 1984 to May, 1986
- Tutor, Johnson-O'Malley Program, Oklahoma City, Oklahoma, December 1984 to May 1985
- Adult Basic Education Instructor(part-time), Native American Center, Oklahoma City, Oklahoma, February 1983 to June 1984
- Adult Education Instructor (part-time) Kate Barnard Community Center, Oklahoma, City, Oklahoma, January 1984 to May 1985
- Instructor, Alternative School Teacher, Oklahoma City, Oklahoma, February, 1983 to June, 1984
- Senior Operator, Gearhart Industries, Clinton, Oklahoma, September, 1990 to October, 1982
- Incentive Action Counselor, Cheyenne and Arapaho Tribes of Oklahoma, Concho, Oklahoma, August, 1979 to June, 1980
- Director, Adult Education Program, Cheyenne and Arapaho Tribes of Oklahoma, Concho, Oklahoma, September, 1978 to June, 1980
- Adult Basic Education Instructor, Cheyenne and Arapaho Tribes of Oklahoma, Concho, Oklahoma, September, 1978 to June, 1980

AFFILIATIONS

- National Congress of American Indians
- National Indian Education Association
- Member Muskogee Creek Nation of Indians

APPENDIX A

National Education Goals

National Education Goals for American Indians and Alaska Natives**GOAL 1: Readiness for School**

By the year 2000 all Native children will have access to early childhood education programs that provide the language, social, physical, spiritual, and cultural foundations they need to succeed in school and to reach their full potential as adults.

GOAL 2: Maintain Native Languages and Cultures

By the year 2000 all schools will offer Native students the opportunity to maintain and develop their tribal languages and will create a multicultural environment that enhances the many cultures represented in the school.

GOAL 3: Literacy

By the year 2000 all Native children in school will be literate in the language skills appropriate for their individual level of development. They will be competent in their English oral, reading, listening, and writing skills.

GOAL 4: Student Academic Achievement

By the year 2000 every Native student will demonstrate mastery of English, mathematics, science, history, geography, and other challenging academic skills necessary for an educated citizenry.

GOAL 5: High School Graduation

By the year 2000, all native students capable of completing high school will graduate. They will demonstrate civic, social, creative, and critical thinking skills necessary for ethical, moral, and responsible citizenship and important in modern tribal, national and world societies.

GOAL 6: High-Quality Native and non-Native School Personnel

By the year 2000 the numbers of Native educators will double, and the colleges and universities that train the nation's teachers will develop a curriculum that prepares teachers to work effectively with the variety of cultures, including the Native cultures, that are served by schools.

GOAL 7: Safe and Alcohol-Free and Drug-Free Schools

By the year 2000 every school responsible for educating Native students will be free of alcohol and drugs and will provide safe facilities and an environment conducive to learning.

GOAL 8: Adult Education and Lifelong Learning

By the year 2000 every Native adult will have the opportunity to be literate and to obtain the necessary academic, vocational, and technical skills and knowledge needed to gain meaningful employment and to exercise the rights and responsibilities of tribal and national citizenship.

GOAL 9: Restructuring Schools

By the year 2000 schools serving Native children will be restructured to effectively meet the academic, cultural, spiritual, and social needs of students for developing strong, healthy, self-sufficient communities.

GOAL 10: Parental, Community, and Tribal Partnerships

By the year 2000 every school responsible for educating Native students will provide opportunities for Native parents and tribal leaders to help plan and evaluate the governance, operation, and performance of their educational programs.

National Education Goals**GOAL 1:**

All children in America will start school ready to learn 90 percent.

GOAL 2:

The high school graduation rate will increase to at least 90 percent.

GOAL 3:

American students will leave grades four, eight, and twelve having demonstrated competency in challenging subject matter, including English, mathematics, science, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.

GOAL 4:

U.S. students will be first in the world in science and mathematics achievement.

GOAL 5:

Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

GOAL 6:

Every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning.

Appendix B

Office of Indian Education Budget Summary FY 96

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION
Testimony for the Senate Committee in Indian Affairs, 02/16/95

OFFICE OF INDIAN EDUCATION BUDGET
FY 94-96 Comparison

	FY 94	FY 95	FY 96
SUBPART 1-GRANTS TO LOCAL EDUCATIONAL AGENCIES			
LEAs	\$52,589,000	\$54,169,000	\$54,993,000
BIA CONTRACT SCHOOLS	\$2,173,000	\$2,452,000	\$2,490,000
BIA OPERATED SCHOOLS	\$2,448,000	\$3,065,000	\$3,110,000
INDIAN CONTROLLED SCHOOLS	\$3,087,000	\$0	\$0
SUBPART 1 SUBTOTAL	\$60,297,000	\$59,686,000	\$60,593,000
SUBPART 2-SPECIAL PROGRAMS FOR INDIAN CHILDREN			
EDUCATIONAL SERVICES FOR INDIAN CHILDREN	\$4,601,000	\$4,143,000	\$0
PLANNING, PILOT, AND DEMONSTRATION	\$1,174,000	\$413,000	\$0
INDIAN FELLOWSHIPS	\$1,735,000	\$1,732,000	\$1,000,000
EDUCATIONAL PROFESSIONAL DEVELOPMENT	\$2,982,000	\$580,000	\$580,000
PROFESSIONAL DEVELOPMENT	\$0	\$3,000,000	\$5,929,000
DEMONSTRATION GRANTS	\$0	\$1,674,000	\$6,500,000
INDIAN TECHNICAL ASSISTANCE CENTERS	\$3,815,000	\$0	\$0
GIFTED AND TALENTED PROGRAMS	\$0	\$0	\$0
INDIAN CONTROLLED SCHOOLS	\$0	\$2,800,000	\$0
GRANTS TO TRIBES FOR EDUC ADMN/PLANNING/DEV	\$0	\$0	\$0
AMER IND POSTSEC ECON DEVEL SCHOLARSHIPS	\$0	\$0	\$0
AMERICAN INDIAN TEACHER TRAINING	\$0	\$0	\$0
SUBPART 2 SUBTOTAL	\$14,307,000	\$14,342,000	\$14,009,000
SUBPART 3-SPECIAL PROGRAMS FOR INDIAN ADULTS			
PROFESSIONAL DEVELOPMENT	\$0	\$0	\$0
ADULT EDUCATION	\$4,861,000	\$5,420,000	\$5,431,000
SUBPART 3 SUBTOTAL	\$4,861,000	\$5,420,000	\$5,431,000
SUBPART 4-FEDERAL ADMINISTRATION			
OFFICE OF INDIAN EDUCATION	\$3,360,000	\$3,272,000	\$3,278,000
NACIE	\$475,000	\$496,000	\$507,000
SUBPART 4 SUBTOTAL	\$3,835,000	\$3,768,000	\$3,785,000
NATIONAL ACTIVITIES			
STATISTICS AND ASSESSMENT	\$200,000	\$0	\$0
RESEARCH/EVAL/DATA COLLECT/TECH ASST	\$0	\$125,000	\$967,000
NATIONAL ACTIVITIES SUBTOTAL	\$200,000	\$125,000	\$967,000
GRANTS TO STATE EDUCATIONAL AGENCIES	\$0	\$0	\$0
INDIAN EDUCATION GRAND TOTALS	\$83,500,000	\$83,341,000	\$84,785,000

Attorneys
Richard Daugherty (DC, CO)
James K. Kawahara *
Robert M. Peregoy (DC, CO)
*admitted in California only

Native American Rights Fund

1712 N Street, N.W. • Washington, D.C. 20036-2976 • (202) 785-4166 • Fax (202) 822-0068

Executive Director
John E. Echohawk

Main Office
1506 Broadway
Boulder, CO 80302-6296
(303) 447-8760
Fax (303) 443-7776

**TESTIMONY OF JOHN E. ECHOHAWK, EXECUTIVE DIRECTOR OF
THE NATIVE AMERICAN RIGHTS FUND
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
CONCERNING
FISCAL YEAR 1996 BUDGET REQUEST
FOR
INDIAN PROGRAMS ADMINISTERED BY THE DEPARTMENT OF JUSTICE
FEBRUARY 24, 1995**

The Native American Rights Fund appreciates the opportunity to submit its testimony regarding the President's FY 96 budget request for the Department of Justice. We believe this is the first time that the Senate has reviewed the Indian programs within the Department of Justice and we hope that the Committee will continue this important oversight function.

In general, the Native American Rights Fund supports the efforts initiated by the Department of Justice on behalf of Indian people. Important initiatives funded in the budget request include the Office of Tribal Justice, an increase in funding for FBI agents assigned to Indian reservations, a set aside established for grant awards to Indian tribes under the Violence Against Women Act, and other grant funds available to support tribal law enforcement efforts.

Although NARF supports these important initiatives, the budget request falls short in fulfilling the trust responsibility of the United States to provide adequate judicial, prison and law enforcement resources to tribal governments and on behalf of Indian people. The Department of Justice's FY 96 budget request totals \$16.5 billion dollars. In comparison, according to the Department's own estimates the FY 96 budget request includes approximately \$23.35 million for the Department's Indian programs. That is only 0.14 of one percent of the Department's budget request.

NARF acknowledges the Department's responsibility for administering all of the judicial, immigration, prison and law enforcement systems of the federal government, as well as, assisting tribal, state and local government in their law enforcement efforts. The scope of the Department's activities may account for the relatively small percentage of funds spent on Indian programs. However, we are concerned that the resources provided for the benefit of tribal governments and Indians is not proportional to the legal and moral obligation of the United States, and fails to meet the needs in Indian country. NARF is particularly concerned that the present method of allocating some grant funds to tribes through the states is inadequate. NARF is also concerned that as the Congress considers rewriting the local government grant process for Department programs under last year's Crime Bill, it will unwittingly place tribes at the end of the line by processing tribal government applications through the state governments.

Native American Rights Fund

I. GENERAL COMMENTS CONCERNING THE ROLE OF THE FEDERAL GOVERNMENT IN PROVIDING FUNDING TO INDIAN TRIBES FOR LAW ENFORCEMENT

Tribal governments have a unique status under the Constitution and laws of the United States

The United States Constitution empowers the Congress "[t]o regulate commerce... with the Indian tribes." (art.I, §8, cl.3.) The effect of the Indian Commerce Clause is to make Indian relations the exclusive province of the federal government. Congress has enacted hundreds of laws in exercise of this authority, and it has been augmented by presidential treaty-making, and executive orders. The unique legal relationship between the United States government and tribal governments has been further elucidated in many court decisions interpreting those laws. In 1831, Chief Justice Marshall held that an Indian tribe was neither a state of the United States, nor a foreign state, but instead constituted a "distinct political society" and "[t]heir relation to the United States resembles that of a ward to his guardian." *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831). The federal government must always act in conformity with its trust responsibility to tribal governments and individual Indians.

The federal trust responsibility extends to the Department of Justice

The federal government has a trust responsibility in providing judicial and law enforcement resources to tribal governments. Approximately half of this Nation's two million Native Americans live on Indian reservations and in Native communities. The federal government must also meet the law enforcement needs of these individuals. Presently, the judicial and law enforcement responsibilities have been dispersed between the Department of Justice and the Bureau of Indian Affairs. The BIA has assumed responsibility for providing or supporting tribal law enforcement officers, supporting tribal judicial systems, and tribal detention facilities. The Department of Justice has been attempting to coordinate the efforts of the Bureau of Indian Affairs and the Department. However, this fragmented allocation of responsibilities has resulted in chronic under funding for tribal governments.

NARF supports the Administration's efforts to extend the government's support of tribal judicial and law enforcement systems outside the Bureau of Indian Affairs. On April 29, 1994, the President issued a memorandum to heads of the executive departments and agencies establishing the responsibility of all federal executive departments and agencies to operate "within a government-to-government relationship with federally-recognized tribal governments." This is a needed first step in coordinating executive department treatment of tribes.

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On January 30, 1995, the Department announced the creation of the Office of Tribal Justice (OTJ) within the Office of the Deputy Attorney General. NARF supports the threefold mission of the Office of Tribal Justice:

- ♦ to promote internal uniformity of Department policies and litigation positions relating to Indian Country;
- ♦ to provide a point of contact within the Department to listen to the concerns of Indian tribes and other parties interested in Indian affairs and to communicate the Department's policies to the tribes and the public; and
- ♦ to coordinate federal Indian policy with other federal agencies that have a role in Indian country.

NARF supports the intent of creating the OTJ to enable existing Department programs to operate more effectively and to provide better service to Indian tribes and Indian people.

Criminal jurisdiction in Indian Country is complex and law enforcement issues neglected

The legal framework that governs criminal law in Indian country is complex and this complexity has added to the neglect of law enforcement.

Before contact with European civilization, Indian tribes exercised powers of self government, which included what we refer to as criminal jurisdiction. Today tribes retain criminal jurisdiction in Indian country, except as restricted by treaties, statutes, and court decisions. However, it is clear that while Indian tribes retain their inherent sovereignty over many crimes committed in Indian country, the federal government has assumed a great deal of jurisdiction on Indian lands or delegated some of their assumed jurisdiction to some states.

Most tribes now operate their own court systems. There are both tribal and BIA police officials, depending upon reservation circumstances. The jurisdictional lines with respect to crimes in Indian country are relatively complex, but settled. As a general matter, federal statutes allocate criminal jurisdiction among federal, state and tribal courts on the basis of the nature of the offense, where the offense was committed, and the Indian or non-Indian status of the offender and his victim. Some states, however, have been given, and others have voluntarily assumed, jurisdiction pursuant to specific federal statutes -- the most well known is Public Law 280 passed by Congress in 1953.

In 1885, Congress passed the Major Crimes Act which, as amended today, makes it a federal offense for an Indian to commit certain enumerated crimes in Indian country. 18 U.S.C. §1153. The General Crimes Act (18 U.S.C. §1152) and the Assimilative Crimes Act (18 U.S.C.

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§13), have created federal jurisdiction over crimes committed by a non-Indian against an Indian. Having assumed jurisdiction over these crimes in Indian country, the federal government must allocate sufficient human and other resources to properly investigate and prosecute violators.

The enactment of Public Law 280 has created serious practical problems of law enforcement in states which have assumed federally delegated criminal and civil jurisdiction over Indian reservations. Foremost among these problems has been that of financing law enforcement services on Indian reservations where the state has assumed jurisdiction. Although states were required to provide funds for additional police personnel, judges and other staff, as a condition of assuming jurisdiction in Indian country, the states have failed to do so, and the federal government has declined to contribute to cover the additional law enforcement expense. This has resulted in serious deficiencies in law enforcement in some Public Law 280 states. See Goldberg, Public Law 280: The Limits of State Jurisdiction over Reservation Indians, 22 U.C.L.A. L.Rev. 535 (1975).

As noted by the Department of Justice, recent data suggests that there are pressing safety and health problems facing tribal governments. For example, the homicide rate for Indians is between 1.3 to 1.8 times-greater than that for all other races in the United States. The FBI reported nearly 1,000 investigations of child sexual abuse in FY 93. According to one report, there are over 1,500 hazardous waste sites in Indian country. NARF agrees with the Department that these are "alarming figures," and supports the Department's efforts to work with tribes to address these problems, which in part stem from the complex nature of Indian country criminal jurisdiction.

II. COMMENTARY ON THE DEPARTMENT OF JUSTICE'S FY 96 BUDGET REQUEST FOR INDIAN PROGRAMS

This is the first time that the budget of the DOJ's Indian programs have been examined. As noted in the testimony of the Department of Justice, the Department's Indian programs do not appear as line items in the budget. Consequently, it is difficult to estimate the amount of funds available for Indian programs. The Department has used estimates for the dollar amounts allocated to Indian issues in the President's 1996 budget request. The Department estimates that the President's FY 96 budget request includes approximately \$23.35 million for the Department's Indian programs.

NARF has reviewed the President's budget and the Department's testimony to the Committee. For the most part, NARF has been unable to confirm the accuracy of this estimate. NARF would like to provide the following specific comments regarding the Department's testimony.

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Office of Tribal Justice

The OTJ is staffed by non-reimbursable detailed positions from other components within the Department that have expertise in Indian issues. NARF is unable to comment on the costs of the OTJ, since the costs of operating OTJ are borne by the contributing components. However, we support the initiative of the Department of Justice in finding the resources needed to establish the Office. It is a step in the right direction.

Environment and Natural Resources Division

The Environment and Natural Resources Division through its Indian Resources Section works with the Department of the Interior to carry out the United States' trust responsibility toward Indian tribes. NARF supports the enumerated priorities of the Division in protecting tribal lands and resources. NARF supports the mission of the Division to protect tribal rights to land, water rights, and hunting and fishing rights, as established in treaties, statutes, and Executive Orders. NARF also supports the Division's efforts to abate pollution on tribal lands.

The Department has estimated that the President's FY 96 budget request includes approximately \$2.53 million for the Division's Indian programs. NARF is unable to confirm the specific estimate by the Department. NARF believes that the work of the Indian Resource Section is important to Indian people. In the opinion of NARF, many requests from the Department of Interior to protect tribal rights are not accepted for litigation by the Section. This may be a result of the funding and staffing limitations of the Section. We believe that the Division's estimated \$2.53 million Indian program budget could be augmented two fold and the United States would benefit by fulfilling its trust obligations and by resolving adjudications in a more timely manner.

United States Attorneys' Offices and the Criminal Division

As discussed above, the federal government has assumed jurisdiction over crimes committed in Indian country. NARF supports the efforts of the United States Attorneys' Offices and the Criminal Division -- in conjunction with the Federal Bureau of Investigation, the Bureau of Indian Affairs (BIA), and the tribes -- to address the unique problems of combatting crime in Indian country. NARF supports the initiative of the Attorney General in increasing the number of U.S. Attorneys assigned to Indian country. However, we note that many of the human and other resources identified as serving Indian country are not devoted solely to law enforcement within Indian country.

For example, the Department has testified that a number of offices have received additional

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resources and many offices have devoted more of their existing resources to this end, particularly to combat child abuse in Indian country. In 1995, 26 additional Assistant United States Attorney positions were provided to those Districts with significant amounts of Indian country within their districts. On issues of child protection, the Child Exploitation and Obscenity Section (CEOS) of the Criminal Division hired seven attorneys with extensive expertise in child sexual abuse and Indian country issues, since November 1994. NARF believes that many of these attorneys devote only partial time to the efforts in Indian country. The remainder of their dockets involve non-Indian matters.

The Department has testified that the President's FY 96 budget request includes approximately \$776,000 for Indian matters handled by the Criminal Division. NARF is unable to confirm this specific budget estimate.

Federal Bureau of Investigation

Law enforcement is dependent upon prompt investigation and apprehension of violators. The Department has testified that in 1995, 27 additional agents will be assigned to supplement the agents currently conducting investigations in Indian country, bringing the total to 124 agents with investigatory responsibilities in Indian country. The Department of Justice estimates total employment of 24,761 FTE for the FBI in FY 96. These 124 agents will be responsible for working within the complex jurisdictional structure and the geographic expanse of Indian country. Again, the human resources devoted to Indian country are woefully low.

NARF supports the efforts of the FBI to work with tribes to develop cooperative law enforcement efforts, including the initiation of Operation Safe Trails in cooperation with the Navajo Nation's Department of Law Enforcement. In particular, NARF supports the FBI's pilot programs to train tribal police in FBI facilities, and its plans to expand its programs and training efforts in FY 96 to include regional training programs for tribal police officers. More should be accomplished in this area of training.

The Department has testified that the President's FY 96 budget request includes approximately \$12.84 million for the FBI's Indian programs. NARF is unable to confirm the accuracy of this estimate.

Office of Policy Development

NARF agrees with the Department that "[t]ribal self-governance is predicated on the ability of a tribal government to establish, maintain, and enforce the laws that govern Indian lands." Indeed, without tribal courts, there will be no effective law enforcement in Indian country.

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The Department has testified that the President's FY 96 budget request includes approximately \$51,000 to initiate the Tribal Court Project, under the Office of Policy Development. The goal of the project is to assist tribes in developing and strengthening their systems of justice. This project is an important first step, and NARF supports the efforts of the Department. However, the amount allocated to this vitally important aspect of tribal law enforcement is embarrassingly low. In comparison, the Judiciary Branch of the United States government will receive \$3.1 billion in FY 96. NARF notes that the President's FY 96 budget request includes a BIA request for \$5 million to fund the development of tribal justice systems under the Indian Tribal Justice Act of 1993. NARF supports the effort of the Administration to fund this program in the BIA for the first time. Obviously, it could be funded at a much higher level.

Civil Rights Division

NARF supports the work of the Civil Rights Division, which has the primary federal responsibility to protect the civil rights of American Indians. As citizens of the United States, all of the traditional civil rights statutes (e.g., voting, housing, employment, credit, and education) apply to Indians as a protected racial minority. NARF supports the efforts of the Division in establishing a coordinator for Indian issues. No budget estimate was provided by the Department.

Community Relations Service

The Community Relations Service (CRS) assists communities in resolving disputes based on allegations of race, color or national origin discrimination. NARF supports the efforts of CRS to mediate disputes over the scope of tribal hunting and fishing rights, issues of the jurisdiction of tribal and state police, disputes over the preservation of Indian artifacts and sacred sites, and intra-tribal election disputes.

The Department has testified that the President's FY 96 budget request includes approximately \$265,000 for CRS to offer its services to mediate disputes in Indian country. NARF is unable to confirm the accuracy of this estimate.

Community Oriented Policing Services

The Community Oriented Policing Services (COPS) program was established under the Violent Crime Control and Law Enforcement Act of 1994. The Department has testified that in FY 95, 128 tribes have received over \$9 million in funding from police hiring grants. Again, to provide perspective, according to the Department's report of FY 95 outlays, the amount

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awarded to states and local police agencies totalled \$1.3 billion in FY 95! It is NARF's hope that the Department will increase the COPS program support for the hiring of tribal police in FY 96. The Congress has stated that the Country should do more to provide cops in Indian communities:

In view of the extraordinary need for law enforcement assistance in Indian country, an appropriate amount of funds available... shall be made available for grants to Indian tribal governments or tribal law enforcement agencies.

140 Cong. Rec. H7378 (daily ed. Aug. 10. 1994)

More is definitely needed to make this congressional directive to allocate law enforcement resources to tribal governments a reality.

Office of Justice Programs

Bureau of Justice Assistance

The Edward Byrne Memorial State and Local Law Enforcement Assistance Program, administered by the Bureau of Justice Assistance (BJA), provides formula grants to states to assist state and local criminal justice systems. **NARF would like to draw attention to the problems created by distributing a grant program in a way that requires the tribes to receive funding from the states.**

Given the unique legal status of tribal governments, and historic animosity or neglect by state governments toward tribes, it has been difficult for tribes to participate in federal law enforcement grant programs that are distributed through the states under a constitutional federalist model. The Constitution makes it clear that the federal government, not the states, is responsible for regulating commerce with Indian tribes. Tribal governments prefer that grant programs are distributed directly from the federal government, not through the states. NARF supports the continued distribution of funding through the offices in the Department of Justice.

Violence Against Women Act Grants

The Violence Against Women Act authorizes a total of 800 million dollars between fiscal years 1995 and 2000. As pointed out in the Department's testimony, these law enforcement and prosecution block grants to the states are designed to develop and strengthen effective law enforcement strategies to combat violent crimes against women and strengthen victim services in cases involving violence against women. Indian tribal governments are eligible to receive

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grants through the Office of Justice under this program.

The Act stipulates that 4% of the appropriated funds must be reserved for direct grants to tribal governments. The Department has testified that the Office of Justice Programs anticipates awarding 15-20 grants to Indian tribes through this discretionary program in FY 95. NARF supports the President's FY 96 budget request, which includes approximately \$5.15 million for direct grants to tribal governments. NARF notes that unless set asides are used, tribes invariably fail to receive a fair portion of law enforcement resources, and supports the use of the set aside provision of this program.

Office of Victims of Crimes

The Department has testified that the Office of Victims of Crime (OVC), which supports federal, state, and tribal authorities' efforts to compensate and assist victims of crimes, will work to address the needs in Indian country. NARF supports the Department's initiative in establishing several programs to directly address the needs of crime victims in Indian country, such as, the Assistance for Victims of Federal Crime in Indian country program.

NARF supports the continued funding of the Assistance for Victims of Federal Crime in Indian country program. In FY 94, this program awarded grants totalling \$765,000 for the needs of Indian country. NARF supports funding at levels equal to the 1994 level in FY 96.

NARF also supports the OVC's Children's Justice Act Grant Program for Native Americans, which makes funds available to Indian tribes and organizations to improve the handling of child sexual abuse cases. The FY 96 budget request includes \$1.5 million for this program.

The Department has testified concerning OVC's training for tribal, state, and federal law enforcement officers, prosecutors, and social service and mental health staff through the biennial Indian Nations Conference. NARF supports continued funding for the training programs of the OVC.

III. CONCLUSION

Thank you for the opportunity to address the need for more law enforcement resources in Indian country and to comment on the President's FY 96 budget request for the Indian programs within the Department of Justice. The Native American Rights Fund looks forward to working with the Senate Committee on Indian Affairs to address the problems of providing funds to support the law enforcement needs of Indian tribes and individual Indians.

**TESTIMONY OF RAY HALBRITTER
NATION REPRESENTATIVE
ONEIDA INDIAN NATION
REGARDING THE
PRESIDENT'S FY 1996 BUDGET REQUEST AS IT RELATES TO INDIAN PROGRAMS
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

Mr. Chairman and Members of the Committee, thank you for the opportunity to submit my written testimony. My name is Ray Halbritter. I am the Nation Representative of the Oneida Indian Nation. I am providing this written testimony to the Committee on Indian Affairs through the invitation extended to the United South and Eastern Tribes, Inc. (USET) of which the Nation is a member.

First, let me give you some general information about our Nation. The Oneida Indian Nation has over 1000 enrolled members principally residing in a nine county area in central New York. Our traditional form of government predates the Constitution of the United States, and to this day our Nation continues to exist as a sovereign, independent government recognized by the United States.

The Oneida Indian Nation has had a long relationship with this country. As an example, during the American Revolutionary War, the Oneida Nation people fought alongside the patriots risking their lives and homes. At one of the bleakest times of the war, the Oneida people in mid-winter carried over six hundred bushels of corn on their backs two hundred miles to feed George Washington's starving army at Valley Forge. The Treaty of Canandaigua, signed by the United

States in 1794, guarantees the Oneida Indian Nation their sovereign right to govern their land and affairs in gratitude for their loyalty, courage, and suffering.

The Oneida people once inhabited six million acres, from the St. Lawrence River in the north to the Susquehanna River in the south. But despite our rich heritage, the Nation was reduced to thirty-two acres that had no water and septic systems, dilapidated, unsafe housing, and a muddied, pot-holed one lane road. Just a few years ago the Nation's sole source of income, a smoke and gift shop, generated only \$150 per week — not nearly enough income to sustain a family, let alone a community.

The Nation was determined, however, to move out of poverty and powerlessness by exercising our sovereign treaty rights. In 1989 the Oneida Nation, for the first time, obtained federal funds to establish a health program for the people and to assess their health-related needs.

At the same time, the Nation pursued its economic self-sufficiency through the development of its own enterprises. In 1991 the Nation established three long range goals that guide all development within the Nation:

1. To implement the legal and administrative structure for the protection of Nation sovereign rights and actualization of government relations.
2. To help our members achieve their highest potential in education, physical and mental health, and economic development.
3. To acquire, develop, and secure resources to achieve economic and social self-sufficiency for the Oneida Indian Nation.

From this beginning, the Nation in less than five years developed the facilities and administrative capacity necessary to deliver over fifty programs and services to our members and other Indian people. This entailed securing federal program dollars through Public Law 93-638 contracts and grants, formula grants, and discretionary grants. The Nation also utilized its own resources derived from our successful enterprises that include Turning Stone Casino, Villages at Turning Stone RV Park, Oneida Textile Printing, Bingo, Petroleum Services, and Smoke and Gift Shops. The Oneida Nation strives to blend the entrepreneurial spirit of its enterprises with the community development aspects of its government to create a better life for the Oneida people, and the seventh generation to come.

Our Nation emerged from poverty and powerlessness based on our own vision and initiative, and through the unique status we hold as a sovereign nation recognized by the United States. We were and are able to use the laws of the United States, such as the Indian Gaming Regulatory Act and the Indian Self-Determination Act, to pursue social and economic opportunities that advance the goals of the Oneida people. We are a people of vision and progress committed to the responsible development of our Nation for our people, now and unto the seventh generation. What we require of the federal government is similar responsible action through the provision of laws, regulations, and funding that adequately and justly address the needs of all Indian people in relation to their unique status as sovereign nations.

COMMENTS ON THE PRESIDENT'S FISCAL YEAR 1996 BUDGET REQUEST

Promotion of Self-Determination

President Clinton acknowledges the unique government to government relationship between the Federal government and Indian tribes in the text of his FY1996 budget request, reflecting and affirming the progress that has been made since the historic White House meeting with tribal leaders on April 29, 1994, the first time that a sitting President met with all the tribal leaders. By continuing to enhance funding for Self-Determination, Self-Governance and all other Indian programs with a proposed increase of seven percent over the 1995 enacted level, the President demonstrates his understanding of our special status and our ability to provide services to our people. When Indian tribes directly administer federally funded programs, we are able to put the needs of our people first by defining and addressing issues within our communities. This is the essence of our government to government relationship as sovereign nations.

Self-Governance Funding

The Administration requests funding for fifty tribes to engage in Self-Governance compacts by the end of FY1996, authorizing tribes to administer Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) programs locally with minimal red tape and second guessing by Federal employees. This is almost a 100% increase in the number of existing Self-Governance tribes, but is only the beginning of what could be an arduous process, without knowledge and support of Indian tribal sovereignty. The Oneida Nation urges Congress to support the efforts of all Indian tribes as they pursue self-governance compacts with adequate funding and federal staff support. This can be achieved by using the savings from streamlining and cost cutting

efforts to fund Self-Governance compacts within BIA and IHS, and by transferring federal employees to programs supporting these efforts.

Self-Determination Funding

While the Oneida Indian Nation is not yet eligible to negotiate a Self-Governance compact with the Department of Interior, we do administer BIA and IHS programs through P.L. 93-638 Self-Determination contracts. The 638 contracts fund our Health Center operations, Summer Youth Corps, Early Childhood Education, Career and Academic Counseling, Mental Health and Substance Abuse Counseling, Indian Child Welfare, Rights Protection, Resource Management, Youth Development, Contract Health Services, Case Management & Probation Services, and Community and Housing Advocacy programs. These programs are critical and essential to our goal of helping Oneida people achieve their highest potential in all aspects of their lives. The President requests that forty-eight percent (48%) of all BIA funding and thirty percent (30%) of all IHS funding be allocated in accordance with tribal priorities through Self-Determination contracts. This is an improvement over past years, but is far removed from the recommendation endorsed by the Joint Tribal BIA/DOI Advisory Task Force that recommended that up to 95% of program resources of BIA funding be controlled and managed by the Tribes. Further, Other Recurring and NonRecurring programs should be reviewed, and with timely tribal consultation, moved, if appropriate and agreed to by the Tribes, to the Tribal Priority Allocation within BIA. We commend the decision to transfer the Housing Improvement Program, Johnson O'Malley, and Roads Maintenance funding to Tribal Priorities Allocation. These actions provide a clear demonstration of both Congress' and the President's commitment to give tribes the flexibility to redesign and rebudget resources in response to our tribal needs and priorities.

Contract Support Costs

The President proposes increased funding in BIA Contract Support Costs, but Contract Support Costs for ongoing contracts (\$109.6 million) and initial or expanded contracts (\$7 million) makeup only 15.3% of the BIA Tribal Priority Allocation line item. Agency staff estimate that this funding will cover almost 90% of the tribal need for Contract support. While we commend the President's action to transfer Contract Support Costs to the Tribal Priority Allocation giving tribes the flexibility to rebudget these funds, underfunding Contract Support Costs within the Tribal Priority Allocation results in a real, but invisible, shortfall. Tribes are forced to take already limited dollars from direct programs to cover program management costs. The President has proposed a 10.8% increase in IHS Contract Support Costs to \$161 million, including \$7.5 million for initial or expanded tribal contracts. Agency staff project a \$7.3 million shortfall in the funding for new contracts, which if taken from the Contract Support budget for ongoing contracts, would reduce total funding for existing contracts to 95% of tribal need.

These are not insignificant shortfalls. While much progress has been made in recent years, the income, educational attainment, and health conditions of Indian people remains below the general population. Developing effective, rather than simply efficient, responses to these deep-rooted societal programs is difficult and expensive. Small tribal numbers, physical isolation, and the lack of government infrastructures within many tribes also contribute to higher administration and management costs for tribal-operated programs. We need every dollar available to operate our self-determination contracts. It should not be at the expense of services to our people. We urge you to support full funding for Contract Support Costs.

Indian Offices Within Federal Agencies

In order for Indian people to provide programs that meet the requirements of the tribe there needs to be effective communication between the various levels of federal government and the affected tribes. One example of increased tribal communication is the establishment of special offices within agencies to work directly with tribes on issues of importance to Indians. The Departments of Justice, Housing and Urban Development, and the Environmental Protection Agency(EPA), have established or are in the process of establishing these new offices. This is a positive step toward implementing the President's April 29, 1994 Executive Order on "Government To Government Relations With Native American Tribal Governments" and strengthens our unique relationship with the federal government. As an example, EPA established a Tribal Operations Committee with tribal representation from each EPA region that supports the functions of the American Indian Environmental Office in EPA. Tribal committee members provide information from tribes in their region to the EPA staff in both a timely manner and at a critical decision-making level that can dramatically affect budget allocations and policy formulation. EPA is making a serious and concerted effort to work with tribes as full partners in protection of the environment in Indian country. We support the establishment of Indian Offices as the preliminary step toward tribal control and management of all Indian programs. These efforts can be supported with savings from streamlining and cost cutting efforts within the agencies and the transfer of staff from other programs.

Environmental Protection Agency Budget Request

The President's budget request for the Environmental Protection Agency includes a \$37 million increase to support Indian environmental programs. But, only \$18 million - less than half

of the total allocation - will go directly to the tribes in the form of grants and assistance. The General Assistance program, which allows tribes the flexibility to establish tribal environmental programs geared toward tribal needs and priorities, is slated to receive \$15 million for the first time ever. This is a very positive step toward Indian people developing the necessary administrative and program capacity to protect and enhance our natural and human resources. However, the Oneida Nation strongly supports eliminating the \$15 million cap contained in the General Assistance Act. The Tribal Operations Committee, referred to in the previous section, identified a \$100 million unmet need for General Assistance funding. This amount would allow all 540 Indian tribes in the country to establish an environmental program, even if that means employing just one person. While EPA has worked diligently with the states in developing environmental programs expending millions of dollars in these efforts, the tribes are at least twenty years behind. Again, the federal agencies are making significant progress in their support and understanding of Indian rights and unmet needs, but these are just the first steps toward true government to government relations.

Preparing For Tomorrow's Needs

The Oneida Indian Nation strongly supports the 37% percent increase in funding for AmeriCorps, administered by the Corporation for National and Community Service, included in the President's budget proposal. The Oneida Indian Nation operates a 36 member Americorps program, one of only three tribal AmeriCorps programs in the country. The Nation, through its Americorps program, is meeting the current environmental, educational, and human service needs of the Oneida people and surrounding communities. More importantly, the leadership required for the 21st century is developing in our own and neighboring communities through cooperative

efforts. During a workshop on values clarification, one Americorps member who is Oneida, remarked on the joy and honor of working together as a team no matter who you are. After spending a day in the cold autumn rain planting trees with his crew he remarked that, " we are all standing in the mud together." Americorps provides an opportunity for people of all ages, races, abilities, and backgrounds to find common ground based on responsible actions and shared values.

Block Grants To States Violate Indian Sovereignty

Tribes have a special sovereign to sovereign relationship with the Federal government, to the exclusion of the states. Block grant legislation and funding proposals overlook this relationship and treat tribes as units of local government. Obviously, we are not a unit of local government. Further, block grant funding for tribes is generally based on population, even though Indian people are perennially under-counted in the U. S. Census. There needs to be another methodology developed, such as the proposed tribal/federal planning and evaluation system recommended in the Joint Tribal BIA/DOI Advisory Task Force, to assess the real and unmet needs of Indian people. We will preserve our right to deal directly with the federal government in providing services to Indian people through the use of Indian setasides and 638 contracts. The 4% setaside for Indian tribal governments proposed in the Department of Justice's Title IV Grants to Combat Violence Against Women is an example of appropriations that respect our government to government relationship. In addition, requiring tribes to act as sub-grantees of the states, adds rather than eliminates, a layer of government between the federal bureaucracy and the intended beneficiaries.

Conclusion

The Oneida Indian Nation commits to the development of its resources for the betterment of our people unto the seventh generation. We understand our interdependence on all creation; we understand what it means to be good neighbors; we continue to take the initiative in achieving our goals. We are no longer poor. We do not seek federal funding out of desperation. We seek federal funding as a result of treaty relationship as partners with the United States in promoting the welfare of our Oneida people and our neighbors in central New York.

Thank you for the opportunity to provide written testimony on the President's Fiscal Year 1996 Budget request as it relates to the specific concerns of the Oneida Indian Nation before the Committee on Indian Affairs of the United States Senate. I am pleased that the Senate and the House have recognized the value of the maintaining the oversight committees on Indian affairs, and I will be happy to work with the members of this Committee as they consider this, and other, important matters.



Intertribal Agriculture Council

100 North 27th Street, Suite 500, Billings, Montana 59101-2054 (406) 259-3525

Prepared Statement of the Intertribal Agriculture Council on
the 1996 Budgets for the Bureau Of Indian Affairs, and the
Department of Agriculture, prepared for the Senate Committee
on Indian Affairs, February 14, 1995.

The Intertribal Agriculture Council (IAC) is an organization of dues paying member Tribes who together control 44 million acres, or 81 percent of the 54 million acres held in trust by the United States for Indian people. The IAC was founded by 84 tribes in 1987 to promote improvement in Native American and Alaskan Native agriculture. We are governed by a Board of Directors composed of elected Tribal representatives from each of the twelve regions of Indian Country reflecting the diverse character of Indian agriculture.

We appreciate the invitation to provide written testimony to the Senate Indian Affairs Committee on both the Department of the Interior and the Department of Agriculture budget requests for FY 1996. We recognize the committee's need to keep printing costs to a minimum and therefore this written testimony is as brief as possible. We have appended information of a supportive nature for the information of the committee but do not expect that these appendices will be included in the formal record.

As this is being written we have not seen the full budget proposals for either department, but we have seen the budget summaries and used sources within the two departments to gain an understanding of what these budget documents contain.

Unfortunately the BIA continues to use the budget process as a means for political deception aimed at side-stepping responsibility while setting Tribes up to be accused of irresponsibility and Congress to be accused of "micro-managing" in the absence of administration leadership. In the past the published Budget Summary has had little, if anything, to do with the actual Budget justification. With this in mind, and realizing that the BIA budget request is now written in a way that is impossible for any prudent person to follow, our current comments are limited. We would like to provide informal comments of an informational nature to the committee after the full budget becomes available.

General BIA Budget overview:

As has been true in the recent past, and despite the rhetoric in the budget summary, the BIA is proposing a self-serving budget which specifically and repeatedly ignores real Tribal and Congressional concerns and input. Included are increases in Bureau programs which Congress has mandated be discontinued (for example \$35 million is requested for new school construction, an increase of \$12.7 million, despite a Congressional moratorium). Also included are major sums for new BIA proposed programs which in some cases, don't even exist (this is the situation for the \$12.5 million requested to implement a legislative initiative on Fractionated Heirship which has not even been provided to Congress and has created severe criticism among those few Indian landowners who have seen the proposal).

The Department again displays its intent to ignore existing law by failing to include any mention of funding for existing Acts and Congressional Mandates, such as its miserably underfunded and poorly managed Irrigation program or the American Indian Agriculture Resources Management Act

of 1993. Perhaps more importantly, 1996 BIA budget again excludes all Congressionally mandated "add-on" programs at the tribal level. These tribally developed programs represent the best possible evidence of tribal priorities. The programs are developed through prioritization at tribal Council meetings, and hundreds of tribal staff hours in program development and proposal writing. They are brought to the Congress only after the Tribal leaders have been unsuccessful at all levels of the BIA in obtaining program funds. The Tribes themselves spend very limited discretionary funds preparing these proposals, traveling to Washington and elsewhere to discuss the need for these programs with Congress and other interested parties, and sponsoring on-site visits. Politically, elected Tribal officials put their positions on the line when they champion an unfunded program opposed by the BIA. Where are the Tribal priorities? Those are the programs which the individual Tribes have invested personal time and money in developing, and which are invariably excluded from the BIA's budget request.

Specific Requests

We have two areas of concern relating to the President's 1996 budget justification for the Department of the Interior, Bureau of Indian Affairs; and one related to the Department of Agriculture, Cooperative Extension Service budget. Specifically these are: 1) Continued support for the Intertribal Agriculture Council, 2) Improved Management of Indian land resources by implementing the American Indian Agriculture Management Act of 1993 (PL 103-177), and 3) increased support for the Extension Indian Reservation Program in the USDA. Each of these topics is treated below.

I. Continued Support for the intertribal Agriculture Council.

The BIA budget request again deletes those organizations of tribal governments which are working to place Tribes in the leadership role in Indian affairs. Included in this group is the Intertribal Agriculture Council, Native American Fish and Wildlife Society, and undoubtedly many of our other sister organizations who are not mentioned in the summary document but scheduled for dissolution.

As is true for most world governments, the United States belongs to many International Organizations because those organizations, like OAS, NATO or the United Nations, can undertake projects which are impossible for a single nation to implement. The same is true for the Tribes and their involvement with Intertribal Organizations. Whereas each Tribal government is a unique entity with unique concerns, there are many issues of a national nature which a single Tribe or Chairman cannot champion while dealing with their own critical needs. This role is not filled by the BIA, because they have a different agenda and, frequently, an adversarial relationship with the Tribal Governments. The Intertribal Organizations assist the Tribes, the BIA and the Congress by focusing on those universal issues of a national nature which otherwise would be lost in the individual concerns which the elected leaders must address. The value of these organizations, including the Intertribal Agriculture Council, are not less than the value of the numerous International organizations and boards to which the United States Government belongs.

Unfortunately, we are again in the undesirable position of having to request that Congress mandate that the BIA continue to support this organization through the budget process. The problem with this particular approach to funding is that the request for continued operating money from Congress tends to overshadow those other needs which we present on behalf of our membership.

Over the past few years the IAC has successfully accomplished many of its earliest goals, including: substantially increasing USDA farmer program availability to Indian producers, re-establishing an Indian extension program, removing regulatory barriers which formerly prevented Indians from participating in USDA emergency or disaster programs, recognizing Indian concerns in the 1990 FACT ACT, assisting the Congress and Executive Branch in understanding Indian concerns, halting the FmHA sale of Indian lands out of trust, and providing a forum for the open discussion of Indian concerns in agriculture.

The return to investment has been phenomenal. Indian people are now negotiating directly with foreign buyers to sell their produce and improve the national balance of trade. Indian people are seeking and accomplishing election and appointment to national and regional boards directing USDA County Services. Every major program of the USDA has a formally designated Indian Coordinator. Hearings have been held, the BIA and USDA have signed agreements and meet regularly in at least two separate program areas. This is just a partial list of a few accomplishments.

As the work of the IAC has progressed since its creation in 1987, our efforts and budgets have more than doubled. We can no longer accomplish all the tasks of our membership for the small amount traditionally appropriated for the support of the IAC. We have, therefore, been active and successful in seeking other avenues of funding and contracting to support these continuing efforts, including private sector, federal contracts, and membership support. However, our continued existence is dependent upon the Congressionally mandated core budget through the BIA, and we ask that this be continued as a viable and positive contribution to the improvement of Indian agriculture. We request to have the Intertribal Agriculture Council re-instated at the 1991 level of \$300,000 for fiscal year 1996. We believe our work and accomplishments justify this use of funding better than dropping this small amount into existing BIA programs. We have appended an abbreviated list of our activities and accomplishment for committee information.

2. Implement the American Indian Agriculture Resources Management Act of 1993. (PL 103-177)

No where on this earth is there a developed nation that has achieved success through investment and concentration on federal administration. All primary wealth originates with the primary resources, those that come from the land. All national wealth is based on the development of these resources, not on the ability to manage and administrate. In order to assist the Indian nations in achieving full economic and social development, it is necessary to follow the dictate of human history: develop the natural resources as the basis for wealth. Until this is accomplished, the majority of land rich Indian people will continue to occupy the very bottom rungs of the economic ladder in the United States. The budget presented by the Secretary strips the harvestable resource development programs to support administrative programs which have no historical contribution to economic or social development.

As we have testified in the past, the Secretary of the Interior spends many times more manpower, money and expertise managing federal lands than managing Indian trust lands. For example, the Bureau of Land Management spends an average of 93 cents an acre managing federal grazing land, while the BIA spends only 24 cents an acre on similar activities on Indian trust lands.

The American Indian Agriculture Resources Management Act of 1993 (PL103-177) is the Congressional approach to correct this situation. It requires a comparative program assessment and defines a direction and method for Indian community input into the development of the long range community goals to finally begin the actual development and use of the primary Indian resources of land and people. It is apparent that the Secretary has no intention of implementing this law which was championed by this committee, since it does even receive a footnote mention in the budget, and many parts are self-actuating and require no regulation development. We are therefore requesting that the Secretary be directed to use \$10 million in FY 1996 as estimated by the CBO and reported in Senate Report 103-186 to begin to implement this important act.

3. Department of Agriculture, Cooperative Extension Service.

We have one primary concern on the proposed 1996 budget for the Department of Agriculture, which is improved support for the Indian Reservation Extension Agent Program. Cooperative Extension Service Agents serve in the critical role of community liaison to all USDA and Land Grant University Agriculture Programs, supervise the important youth activities of 4-H, and

coordinate special training programs such as food storage techniques, nutrition, and subsistence gardening. The Indian Reservation Extension Agent program is authorized in Section 1677 of the 1990 FACT Act, and spearheads the efforts at improving USDA involvement with American Indian communities. We in the IAC are proud of our participation with this committee in the effort to establish this critical Reservation Extension Agent program.

Coupled with authorizations in the 1990 FACT Act, the Congress made clear its support for this vital undertaking to improve services to the first Americans by appropriating one million dollars in the 1991 budget (at the same time the FACT Act was being debated). As a result of that authorization and appropriation, the Cooperative Extension Service, working in concert with Indian Tribes and State Extension Directors, implemented a program which in its first year resulted in the establishment of 13 fully operational Reservation Extension Projects, with a total of 34 staff, half of which were American Indians. In addition, each dollar of Federal seed money attracted \$0.37 in Tribal Government support, and \$0.41 in State Government support. States and Tribes hired nine individuals, in addition to the extension personnel, to assist in these projects.

Despite this extremely productive use of the start-up funds the department deleted the fledgling program from its FY 1992 budget request. But Congress recognized the value, reinstated the initial \$1.0 million and added another \$500,000 to increase expansion and development in 1992. The Department again dropped this valuable and successful program from its budget request for FY 1993, and again Congress showed its support by appropriating \$1.75 million, an increase of \$250,000 over 1992 levels. In the 1994 budget request the Department again recommended no funding, and Congress overrode that request and funded this critical program at \$1.75 million.

In both 1995 and 1996 the Administration has included this valuable and successful program for funding at the level of \$1.75 million. Due to Department hold back of an 8% overhead, this results in a total of only \$1,600,000. Even so, and without a national program leader or other oversight, 32 extension programs are providing valuable and formerly unavailable services to Indian Communities in 20 states from Florida to Alaska, including especially the valuable 4-H programs for our next generation.

In the first six months of this program the Extension Service received more than 75 proposals submitted jointly by cooperating States and Tribes to provide Extension services to the Indian communities. These cooperative proposals totaled more than 16 million dollars. More than \$1.5 million in necessary, well-documented and well-developed State proposals were rejected for funding in 1993 due to a lack of budget dollars. No proposals for new programs have been requested or considered for funding since 1992, under the current budget levels. The level of need and interest by both the Tribes and the States, working in concert for the first time in history, strongly supports our contention that this program should be fully funded.

Support for this valuable and effective program includes continuing requests from the Extension Committee on Policy, a committee of the National Association of State Colleges and Land Grant Universities for improved and continued funding. They suggested a funding level of \$3.6 million to begin the increase in the Department budget for 1996, but the Department ignored this suggestion.

A minimal Extension program as provided to all off-reservation communities would have required a federal appropriation of \$6.5 million in 1991, which has now increased to an estimated \$8 million to account for inflation and paycost increases. This is based on program figures developed jointly by the IAC and the Cooperative Extension Service while this program was being designed for the 1990 FACTA. Therefore, the IAC and our member Tribes are requesting an increase of \$6.25 million over the budgeted amount of \$1.75 million to a total of \$8.0 million in Reservation Extension Programs under the Cooperative Extension Service to comply with the intent of Congress, and to continue this very successful program. This totals less than 1.4% of the total

budget request for Agricultural Research and Partnership Education Programs. We also request all moneys appropriated for this important program be specifically exempt from the 8% overhead costs being deducted at the Washington level by the USDA. We have appended the full program development proposal for the information of the committee.

The Board of Directors of the Intertribal Agriculture Council, on behalf of our member Tribal governments, are grateful for the opportunity to submit our written comments on these budget issues of great importance to the Indian agriculture community. We will be happy to discuss these and other issues with the Committee at their request and convenience.



Intertribal Agriculture Council

100 North 27th Street, Suite 500, Billings, Montana 59101-2054 (406) 259-3525

IAC Information Sheet

The Intertribal Agriculture Council (IAC), is a private, 501(c)3 non-profit corporation, comprised of dues-paying member Tribes with an interest in the management and development of their land and agricultural resources. It was founded by Charter in November of 1987 to provide a unified effort to promote change and improvements in Indian agriculture for the benefit of Indian people and communities. The purpose of the IAC, as established by Charter, is to improve the stability and long-term profitability of Indian agriculture, and to promote the Indian-use of Indian resources.

The IAC is governed by a Board of Directors composed of Tribal representatives elected from each of the twelve Indian regions recognized by the US. Department of the Interior. The four officers are elected by the board from its membership and comprise the executive committee, which handles the day-to day decision making for the IAC. All members serve on a voluntary basis.

Voting membership in the IAC is limited to federally recognized Tribes and Native Alaskan Associations. Member Tribes pay dues of \$200.00 per year. In addition, an individual supporting the purposes of the IAC may apply for Associate Membership which does not confer voting rights. Associate dues are \$25.00 per year. Corporations supporting the purposes of the IAC may become Corporate Members, (which also do not have voting rights) for dues of \$500.00 per year.

Paid staff of the IAC currently includes an Executive Director, two Program Managers, and an Administrative Assistant. These individuals all work at the IAC headquarters office, located in Billings, Montana. Funding sources include Tribal dues, a Congressionally mandated federal contract through the Bureau of Indian Affairs, a two-year marketing program grant from the Administration for Native American (HEW), several small projects for Federal agencies, and contributions/grants from foundations.

IAC Activities and Accomplishments, 1994

Prior to 1987, Indian agriculture was basically unheard of outside reservation boundaries. There was no BIA or USDA emphasis or activity in this important area, with the result being several hundred thousand acres of Indian lands were in danger of foreclosure by FmHA. Indian farmers and ranchers were five times more likely to go bankrupt than the national average. Indian producers were categorically excluded from all federal emergency aid programs and most USDA commodity or conservation programs, and the BIA was continually taking funds from its minuscule Agriculture and Irrigation budgets to use in other branches. In this bleak atmosphere the IAC was founded by 87 Charter member Tribes, and has undertaken the challenge of reversing these trends.

Congressional Education and Testimony

The IAC has been invited to testify to Congress and assist in educating staff on Indian agriculture issues since its inception. The IAC has been invited to:

- Testify on the Interior Budget each year since 1987;
- Testify on the USDA budget for the past six years;
- Testify on behalf of the S2770 - the proposed Indian Finance Corporation;
- Testify in two hearings on general Agriculture Credit;
- Set-up the first Senate Select Committee Oversight Hearing on Indian Agriculture;
- Set-up the Joint Senate Select Committee and Senate Agriculture Committee oversight hearings on Indian Agriculture;
- Set-up the Senate Select Committee oversight hearing on Indian Irrigation;
- Testify on all amendments to the Farm Credit Act;
- Was the only Indian organization invited to testify before the Senate hearings on FmHA;
- Testify at the Senate Indian Affairs Committee Oversight hearing on Fractionated Heirship;
- Submitted at the request of the Senate Indian Affairs Committee, a report on Indian Agriculture access to USDA programs, "Barriers to Successful Competition: The Isolation of American Indian Agriculture";
- Testify and assist in arranging for Tribes, producers, landowners to testify in 1992 and 1993 on the Indian "American Indian Agricultural Resource Management Act".

Drought Relief Programs

In a series of meetings and discussions, the IAC was unsuccessful in getting the BIA to modify their requirements. We were, however, able to convince the ASCS to modify their administration so that Indian producers are now eligible for both BIA and ASCS emergency assistance programs.

Financial Credit for Indian Agriculture

Credit needs of Indian producers have been a major concern of the IAC since its inception. To improve credit availability several steps have been taken. Some IAC activities to date include:

- Written and Congress has passed two sets of amendments to Farm credit legislation concerning foreclosure by the USDA on Indian lands;
- Interceded on behalf of Indian FmHA clients threatened with foreclosure;
- Got Congress to more than double direct lending programs in FmHA;
- Wrote the language that is included in the Farm Bill on socially disadvantaged farm ownership and limited resource operating loans;
- Reservations are defined as a single county for purposes of FmHA special programs in the 1990 Farm Bill;
- The 1990 Farm Bill increases the FmHA Indian Land Acquisition program to \$8,000,000 a year and reduces the interest rate to 5%.
- Wrote and distributed the Indian Borrowers Guide to BIA and FmHA Programs, funded by a cooperative agreement between the two agencies;
- Formally proposing a 7-year lending title for operating loans to be in the 1995 Farm Bill;
- Assisting Tribes in implementing a National Indian Federal Savings Bank.

Irrigation

Irrigation of Indian lands is an important part of Indian agriculture in the West, and has been an important concern of the IAC since its inception. Some IAC activities on irrigation include:

- Participated with the BIA in their National Irrigation Committee review;
- Held several Tribal meetings to develop a position paper on the findings of the BIA Committee;
- Requested and set up the 1990 Senate Oversight Hearings on Indian Irrigation;
- Held 5 field hearings on irrigation to solicit tribal views; prepared a report of the findings;
- Orchestrated Tribal involvement in meetings of the Secretary and Assistant Secretary to stop the Department of Interior from assigning the Indian Safety of Dams Program to BOR..
- Have a project to determine the key criteria for the priority of Indian Irrigation work;
- Completed a mail survey of Indian irrigation project managers, users and land owners to solicit their opinions on the priorities for Indian Irrigation activities;
- Held 3 field hearings on irrigation priorities throughout the Country to solicit tribal views;
- Have prepared an irrigation prioritization for BIA and Congress to correct irrigation operation and maintenance funding deficiencies.

Land Tenure and Leasing and Permitting

Indian-use of Indian resources is one of the major principals of the IAC. To pursue this goal, the IAC has been active in solving some long-standing problems which result from poor land tenure regulations:

- Cooperated with the Ad Hoc working group on Indian Land Consolidation and continues to work with them and others to develop meaningful solutions to Indian land fractionation;
- Met with the Assistant Secretary, the Commissioner, the Deputy - OTED and BIA personnel to develop action on Indian fractionated heirship;
- Initiated the GAO report on fractionated heirship for future legislation;
- Coordinates with the Intertribal Monitoring Association on Indian Trust funds on fractionated heirship problems affect trust fund management;
- Developed legislative amendments to protect Indian land from losing its trust status if foreclosed on by federal agencies;
- Developed legislation, "Indian Agricultural Resources Management Act of 1993", to place the elected Tribal governments in control of reservation land planning and management;
- Cooperatively developed with the BIA the draft regulations which accompany the "Indian Agricultural Resources Management Act of 1993."

Natural Resources Education

At the Charter Symposium of the IAC in 1987, a major issue developed by the charter member Tribes was the requirement for improved educational opportunities to Indians in the natural resources and agriculture fields. To accomplish this the IAC has undertaken the following action:

- Successfully sought an additional \$250,000 in funding for the Haskell and SIPI schools to start Natural Resource Programs;
- Serves on the Natural Resources Board of Haskell Junior College;
- The 1990 IAC Symposium included a Youth Conclave with several scholarships;
- The 1992 & 1993 IAC Symposium included presentations by several Indian youth on their problems and successful projects;
- Language written by the IAC in the 1990 Farm Bill authorizes Tribally Controlled Community Colleges to participate in USDA programs - the college at Ft. Berthold is the first to participate in the Small Farmer Outreach Program;
- Met with the National Association of State Universities and Land Grant Colleges on four separate occasions so that Indian colleges can participate in federal agriculture programs open to the land grant schools;
- The IAC wrote an educational section providing scholarships, cooperative education programs and internships in the "Indian Agricultural Resources Management Act of 1993".

Reservation Cooperative Extension and 4-H

Establishing Reservation Extension Agents to provide 4-H and USDA liaison to the reservations has been a major undertaking of the IAC since its Charter in 1987. This is one program in which we have done perhaps the most work and had the greatest achievement. The summary is:

- Drafted authorizing legislation into the 1990 Farm Bill for special Indian Extension programs;
- Got the only new appropriation for 1991 from the House Agriculture Committee, \$1,000,000;
- Got an increase to \$1,500,000 for 1992 and an increase to \$1,750,00 for 1993 and 1994;
- Had 15 agents in place in 1991, another 13 in 1992 and a total of 32 agents in place in 1994;
- Worked cooperatively with USDA/Extension Service to sponsor the 1st Annual Reservation Extension Agent Conference in Polson, MT 1993 and the second annual conference in Cherokee, NC, 1995.

Improving USDA Services to Indians

A major initial goal of the IAC from its Charter was to improve Indian access to USDA programs. The spearhead of this effort was the Extension program listed above. However, numerous additional steps have been taken:

- Helped create the American Indian Alaska Native Agriculture Network in Washington, DC;
- Worked with member Tribes to correct the payment limitations in ASCS programs;
- Gained new interpretations of USDA regulations to improve Indian enrollment in farm programs;
- Wrote language into the 1990 Farm Bill which requires USDA to staff an office on each reservation at least one day a week;
- Has set up four state USDA/Tribe meetings to implement this provision;
- FmHA, ASCS, SCS state personnel and the Administration in USDA have all established Indian coordinators;
- Prepared and distributed the report on "Barriers to Successful Competition: The Isolation of American Indian Agriculture";
- Have published a manual explaining SCS programs to Indian people;
- Assisted in establishing and conducting 6 SCS cultural awareness workshops;
- Met with Secretary of Agriculture, Mike Espy and his Chief of Staff, Ron Blackley on Indian ag issues;
- Participated in a USDA sponsored Native American and Alaskan Native Symposium in 1993;
- Co-sponsored a FmHA conference on Building Partnerships between USDA and Native Americans;
- Secured a 4-part contract with SCS to: (1) Provide Indian landowners, operators and land ownership by Reservation (completed), (2) Review SCS policy/regulations to determine impediments to Indian participation (completed), (3) Develop training materials for tribal

- government usage in development of Indian Soil and Water Conservation Districts,
- (4) Provide Reservation specific on-site training in the development of SWCD's.
- Prepare seven position papers addressing improving the USDA/Indian relationships for the 1995 Farm Bill and USDA Reorganization;
- Secured the funding for IAC and proactive SCS personnel to visit each reservation in 1995 where there is not a SCS presence.

Marketing and Economic Development

The development of markets and possible sources of venture capital was undertaken by the IAC board with an ANA contract. The project includes: development of an Indian Trademark, survey of existing federal data bases, and development of an Indian Agriculture Marketing Brochure. To fulfill these requirements, and improve Indian market share, the following steps have been taken:

- contracted Colorado State University to conduct a Federal data Base survey, which reports that no worthwhile data base on Indian agriculture exists;
- Filed for and are completing a 'Made by American Indians' trademark;
- Published in 1992 the Indian Agriculture Profile of member Tribes to increase public awareness;
- Redrafted the census procedures for determining Indian agriculture data;
- Cooperated with the American Indian Trade and Development Council in a joint project with the USDA Foreign Agriculture Marketing Service;
- Implemented a program of press releases throughout Indian Country and the nation at large to focus more attention on Indian agriculture;
- Reviewing the feasibility of creating a specialized catalog for Indian agricultural products;
- Developed a pilot project involving Indian agricultural producers in the development of production or marketing cooperatives;
- selected two livestock associations which we will assist in the development of formal cooperatives;
- Co-funded a Native American agricultural survey on the seven reservations in Montana.

Numerous other activities, such as publishing a bi-monthly newsletter, have been undertaken by the Board, the Staff or individuals who, by virtue of their involvement with IAC, serve on various National committees and councils. This overview is neither extensive nor inclusive, but does give a sense of what the IAC has been doing in its first 8 years of existence.

COOPERATIVE EXTENSION SERVICE

Introduction:

The re-establishment of Reservation Extension Agents to provide extension services to the American Indian communities has been a major project of the IAC for the past 2 years. In attempting to re-implement this agriculture program of critical importance to the reservation communities we have worked closely with USDA officials. Last November USDA Extension Agents and representatives of the IAC prepared a proposal to re-establish agents on the larger reservations, which is the basis for the recommendations made here.

Background:

Cooperative Extension Agents provide the link between new agriculture technologies developed by the Land Grant Colleges and the application of these developments by the nation's farmers and ranchers. They also serve a liaison function with other USDA programs, such as FmHA; assist in developing Farm plans for financial institutions, provide training in Farm and Ranch business management and record keeping, supervise youth activities such as 4-H, and coordinate special training programs such as food storage techniques, nutrition, and subsistence gardening.

Indian producers are excluded from receiving extension services by the elected off-reservation County committees which control extension services at the local level. Various reasons are given for this exclusion, but the most acceptable one, explained by a ranking USDA administrator in the Cooperative Extension Service involves the funding sources. Funding for the Cooperative Extension Service comes from 4 levels:

Federal Government -	32%
State funds -	47%
County funds -	18%
Private sources -	3%

Reservations are not under county and state jurisdiction in most instances, and therefore do not directly contribute to the county or state tax rolls, although Federal impact funds are provided. The County Extension Agents are directed by county commissioners and committees who may feel justified in excluding reservations from the service area. In order to obtain extension services several tribes are currently using their own financial resources to pay federally supported Land Grant Colleges to provide them with an Extension agent.

Recommendation:

The remedy to this situation is to re-establish the program of reservation agriculture extension agents specifically to serve those Indian reservations and tribal jurisdictions with sufficient acreage or population to be roughly comparable to counties in size or complexity. This will mean establishing one Agricultural Extension Agent on each Indian Reservation, Indian

Community, Native Association, or Consolidated Agency with at least 120,000 acres, and 2 agents on those reservations with over 1,000,000 acres. A total of 86 agents will be required to implement this program at an average cost of \$64,000 each, including support costs, as shown below:

<u>Item</u>	<u>Cost per year</u> <u>(in thousands)</u>
Personnel :	
Agent (full grade equivalent to GS-11/5)	\$34.0
Secretary (1/2 time, GS-4/5 equivalent)	8.0
Fringe (20%)	8.4
Total yearly Personnel Services:	\$50.4
Operational Costs	
Supplies and Expense:	\$2.4
Travel and Training	4.0
Local transportation/Vehicle expenses	3.6
Equipment	3.6
Total Operational Costs	\$13.6
Total yearly cost per Reservation agent:	\$64.0

In developing the above average budget it is recognized that actual costs will vary from state to state. Office costs, including rent, furniture, telephone, and etc. will be borne by the recipient tribe as an in-kind contribution. The first year delay in implementation caused by recruitment time frames will provide considerable personnel lapse money for the procurement of necessary equipment, such as Ag-Net compatible mini-computers. In some remote areas additional costs in housing allowances or similar enticements may be necessary to recruit suitably qualified individuals. Equipment costs in subsequent years could be reduced and will allow flexibility to cover those few positions which require housing allowances or similar unusual or unplanned expenses.

A separate program of direct extension assistance to those reservations which do not qualify based on acreage criteria, but which demonstrate unmet needs due to isolation or other factors, should be established under the national office of the Cooperative Extension Service as an integral part of this initiative. The purpose of this Direct Assistance Program is to provide direct response to specific tribal government requests for extension assistance by supplying resources to those entities which provide the actual assistance. This could include the Extension Service directly, a land-grant college, the tribal government, or a separate contractor approved by the Cooperative Extension Service. This national program segment will require initial funding at \$1,000,000 per year, and be operated directly out of the Cooperative Extension Service offices in Washington, DC.

The total expense will be \$6.5 million, The area breakdown is as follows:

<u>Area</u>	<u>Agents Needed</u>	<u>Cost</u> <u>(in thousands)</u>
Aberdeen Area	11	\$704.0
Albuquerque Area	12	\$768.0
Anadarko Area	1	\$64.0
Billings Area	9	\$576.0
Eastern Area	2	\$128.0
Juneau Area	4	\$256.0
Minneapolis Area	4	\$256.0
Muskogee Area	2	\$128.0
Navajo Area	9	\$576.0
Phoenix Area	20	\$1,280.0
Portland	10	\$640.0
Sacramento Area	2	\$128.0
Direct Assistance Program (Washington D.C. office)	<u>-0-</u>	<u>\$1,000.0</u>
Totals	86	\$6,504.0

These funds could be appropriated under section 3(d) of the Smith Lever act, used only for direct extension services on reservations and would not be subject to university overhead or state matching requirements.

The emphasis of the reservation extension program will be on traditional extension service activities in agriculture development, management and the youth activities of 4-H. In addition to conducting traditional agricultural and youth extension programs, the reservation extension agents will serve as primary liaison and referral source between the reservation or Indian community and local USDA agencies and programs.

These reservation extension programs must be provided with the same level of technical support from the Land Grant Colleges as county programs. The reservation extension agents will be employees of the Cooperative Extension Service unless the program is operated by a tribal government under the provisions the Self-determination Act (25 USC 450 et. seq.), and will be supervised by the appropriate Cooperative Extension Service official at the state level in consultation with tribal governments. In addition, Reservation Extension Advisory Committees comprised of at least 3 members elected from the local reservation community will be established. These Advisory Committees will function in the same manner as existent County Committees to identify extension education needs, provide referral for local community concerns, set program priorities, and review and approve Extension plans of work.

Acreage figures for potential placement of Extension Agents under the guidelines recommended by the Intertribal Agriculture Council. Tribal Jurisdictions are listed by BIA Area, State and Agency. Source: Annual Report of Indian Lands; U.S. Department of the Interior - Bureau of Indian Affairs, Office of Trust Responsibilities. September 30, 1985.

Agency or Reservation	No. of Tribes or Reservations	Acreage	Extension agents needed
Aberdeen Area			
<u>Nebraska</u>			
Winnebago Agency (inc: Ia)	3 Reservations	64,399	0
<u>North Dakota</u>			
Fort Berthold	3 affiliated	419,361	1
Fort Totten	1	53,239	0
Turtle Mountain	1	33,318	0
<u>South Dakota</u>			
Cheyenne River Sioux	1	1,395,904	2
Crow Creek	1	125,483	1
Lower Brule	1	130,239	1
Pine Ridge (inc: Ne)	1	1,780,443	2
Rosebud Sioux	1	954,571	2†
Sisseton (inc: ND)†	1	108,134	1†
Standing Rock (inc: ND)	1	847,252	1
Yankton	1	36,558	
Aberdeen total			11
Albuquerque Area			
<u>Colorado</u>			
Southern Ute	1	310,001	1
Ute Mountain Ute (inc: Ut & NM)	1	597,328	1
<u>New Mexico</u>			
Jicarilla Apache	1	823,580	1
Laguna Pueblo	1	461,098	1
Mescalero Apache	1	460,678	1
Northern Pueblos Agency	8 Pueblos	241,959	1
Ramah Navajo	1	146,953	1
Southern Pueblos*	10 Pueblos*	342,818	1
*(Does not include Acoma, Isleta or Zia in totals)			
Acoma Pueblo	1	263,611	1
Isleta Pueblo	1	211,034	1
Zia Pueblo†	1	117,702	1†
Zuni Pueblo (inc: AZ)	1	416,182	1
Albuquerque Total			12

Anadarko Area

<u>Kansas</u>			
Horton Agency (inc: Co, Ne, Ok)	4 Reservations	48,111	0
<u>Oklahoma</u>			
Anadarko Agency	3 Res.	267,405	1
Concho Agency	1	84,570	0
Pawnee Agency	5	54,999	0
Shawnee Agency	3	38,841	0
Anadarko Total			1

Billings Area

<u>Montana</u>			
Blackfeet Nation	1	939,838	1
Crow Nation	1	1,517,405	2
Fort Belknap Indian Community	2 Affiliated	617,487	1
Fort Peck Assiniboine/Sioux	2 Affiliated	904,683	1
Northern Cheyenne	1	436,948	1
Rocky Boy's Chippewa Cree	1	108,334	1
<u>Wyoming</u>			
Wind River Reservation	2	1,888,557	2
Billings Area Total			9

Eastern Area

<u>Alabama</u>			
Porch Band	1	213	0
<u>Connecticut</u>			
Mashantucket Pequot	1	1,201	0
<u>Florida</u>			
Miccosukee††	1	75,145	††
Seminole Agency††	5 Reservations	79,028	1
<u>Louisiana</u>			
Choctaw Agency	2 Reservations	436	0
<u>Maine</u>			
Passamaquaddy Township	1	67,033	0
Penobscot Nation	1	145,665	1
<u>Mississippi</u>			
Choctaw Reservation	1	17,926	0
<u>North Carolina</u>			
Cherokee Agency	1	56,572	0
Eastern Area Total			2

Juneau Area**

<u>Alaska</u>			
Anchorage Agency	Public Domain Allotments	232,357	1
Bethel Agency	Public Domain Allotments	235,649	1
Fairbanks Agency	3	236,959	1
Nome Agency	Public Domain Allotments	175,084	1
Southeast Alaska	Public Domain Allotments	4,079	0
Juneau Area Total			4**

Minneapolis Area

<u>Michigan</u>			
Michigan Agency	7	21,656	0
<u>Minnesota</u>			
Minneapolis Area Office (inc: Ia)	5	6,893	0
Minnesota Agency	7	197,036	1
Red Lake	1	564,452	1
<u>Wisconsin</u>			
Great Lakes Agency (inc: MN)	13	195,808	1
Menominee Reservation	1	222,552	1
Minneapolis Area Total			4

Muskogee Area

<u>Oklahoma</u>			
Osage (inc: Ar, Az, Mo, Mt)	Scattered Allotments	1,637	0
Osage Reservation	1	168,794	1
Five Civilized Tribes	5 Tribes	473,697	1
Miami Agency	8 Tribes	17,810	0
Muskogee Area Total			2

Navajo Area

<u>Arizona</u>			
Chinle (inc: NM)	1	1,772,488	2
Fort Defiance (inc: NM)	1	3,457,478	2
Western Navajo (inc: Ut)	1	5,408,703	2
<u>New Mexico</u>			
Eastern Navajo	2	243,129	1
<u>Utah</u>			
Shiprock	1	1,891,900	2
Navajo Area Total			9

Phoenix Area

	<u>Arizona</u>		
Colorado River (inc: Ca)	1	268,691	1
Fort Mojave (inc. Ca & Nv)	1	32,677	0
Fort Apache	1	1,664,972	2
Hopi Reservation	1	1,561,213	2
Kaibab Paiute Reservation	1	120,413	1
Papago Agency (Tohono O'odam)	3	2,855,968	2
Pascua-Yaqui Agency	1	894	0
Pima Agency	3	393,932	1
Salt River Agency	2	75,186	0
San Carlos Reservation	1	1,826,541	2
Truxton Agency*	4*	190,922	1
*(Does not include Hualapai in totals)			
Hualapai	1	992,462	1
	<u>California</u>		
Fort Yuma (inc: Az)	2	50,049	0
Chemehuevi Reservation	1	30,653	0
	<u>Idaho</u>		
Owyhee Reservation (inc: Nv)	1	298,819	1
	<u>Nevada</u>		
Eastern Nevada (inc: Ut)*	10*	135,046	1
*(Does not include Owyhee in totals)			
Western Nevada (inc: Ca & Or)*	16*	203,935	1
*(Does not include Pyramid Lake or Walker River in totals)			
Pyramid Lake	1	476,688	1
Walker River	1	323,406	1
	<u>Utah</u>		
Southern Paiute	5	32,421	0
Uintah & Ouray	1	1,021,557	2
Skull Valley	1	17,444	0
	<u>Phoenix Area Total</u>		<u>20</u>

Portland Area

	<u>Alaska</u>		
Metlakatla	1	86,741	0
	<u>Idaho</u>		
Fort Hall	2 Affiliated	522,510	1
Northern Idaho Agency	3 Res.	155,514	1
	<u>Montana</u>		
Flathead Reservation	2 affiliated	627,070	1

Portland Area (cont.)

	<u>Oregon</u>		
Celilo Village	1	46	0
Siletz Reservation	1	3,673	0
Umatilla Reservation	1	85,255	0
Warm Springs Reservation	Confederated	643,507	1
	<u>Washington</u>		
Colville Reservation	1	1,063,043	2
Olympic Peninsula Agency	11	164,549	1
Puget Sound Agency	12	32,891	0
Spokane Agency	3	138,340	1
Yakima Reservation	1	1,130,285	2
	Portland Area Total		10

Sacramento Area

	<u>California</u>		
Central California Agency†	44†	104,681	1†
Hoopla Agency	17	96,444	0
Southern California Agency	32	245,606	1
	Sacramento Area Total		2

† Some reservations which fall slightly under the targeted acreage limitation are included in the higher bracket due to their relative physical or cultural isolation.

††The Florida reservations are recommended for consolidation, with a single agent, due to internal similarities: the five Seminole land holdings listed as separate reservations by the BIA are under a central tribal government.

**Alaska acreage figures provided in the BIA report list only "trust" lands; generally individual allotments. Not included in these totals are approximately 44 million acres of Native Village and Native Corporation lands. Some Extension services are currently being provided by the University of Alaska and Native Corporations who use PL93-638 contracts for BIA Extension money, among other funding sources. Larger villages and corporations might be able to justify more than the 4 recommended agents, but this should be a good start which the Alaskans can modify in the future if they feel the need.

Summary of Agents by State:

Alaska	4
Arizona	19
California	2
Colorado	2
Florida	1
Idaho	3
Maine	1
Minnesota	2
Montana	8
Nevada	4
New Mexico	11
North Dakota	1
Oklahoma	3
Oregon	1
South Dakota	10
Utah	4
Washington	6
Wisconsin	2
Wyoming	2
States: 19	Agents: 86

Summary of the number of tribes served under the 120,000 and 1,000,000 acreage limitation, by BIA area office:

Area served	Tribes	
	served	not
Aberdeen	11	5
Albuquerque	28	0
Anadarko	3	13
Billings	10	0
Eastern	7	7
Juneau	*	*
Minneapolis	22	12
Muskogee	6	8
Navajo	6	0
Phoenix	46	13
Portland	24	16
Sacramento	76	17
Totals	239	91

Final Note: The totals listed above differ from those in previous IAC testimony: Aberdeen area is shown with 11 agents here, rather than twelve, and Billings Area is shown with 9 rather than eight as previously indicated. Total Tribes does not add to the BIA figure of 248, due in part to the inflation by including all the California "Rancherias" and scattered public domain allotments.

TESTIMONY BEFORE THE UNITED STATES SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS

February 16, 1995

OVERSIGHT HEARING ON FISCAL YEAR 1996 ADMINISTRATION BUDGET

SUBMITTED BY:

JUDY KNIGHT-FRANK, CHAIRMAN
UTE MOUNTAIN UTE INDIAN TRIBE
TRIBAL OFFICE COMPLEX
TOWAOC, COLORADO 81334,
(303) 565-3751
FACSIMILE (303) 565-8549

Mr. Chairman and Members of the Committee:

I want to thank you for allowing the Ute Mountain Ute Indian Tribe ("Tribe") to submit this written testimony before you on a very important issue of to the Tribe: Fulfillment of the United State's obligations under the 1988 Colorado Ute Indian Water Rights Settlement Act and 1986 Settlement Agreement.

The following sets forth the Tribe's written testimony to the Select Committee on Indian Affairs. It includes commentary on recent negotiations and discussions with representatives from the Bureau of Indian Affairs, the Department of the Interior and members of Congress with respect to the Tribe's efforts to obtain funding required to complete the on-farm facilities promised to it during settlement negotiations. The Ute Mountain Ute Indian Irrigation Project is the end use of water delivered by the Dolores Project, a project which the U.S. Government is obligated to complete under the Colorado Ute Indian Water Rights Settlement Act of 1988. After you have reviewed our testimony, please feel free to contact the Tribe with any further questions you may have.

I. Primary Concerns of the Ute Mountain Ute Indian Tribe:

The Tribe hereby submits this testimony to the Senate Select Committee on Indian Affairs on its serious concern over the absence of any funding in the Department of Interior, Bureau of Indian Affairs budget for FY 1996.

During the settlement negotiations, the Tribe initially requested 100 million dollars for reparations of breach of trust relating to the United States' dewatering of the Reservation. This number was brought down to around \$40 million as the United States promised to fund UMIP through BIA programmatic funding. This funding has not been forthcoming and the Tribe has been successful in obtaining write-in appropriations for the past 5 fiscal years. Clearly, Congress acknowledges the United States' obligation to complete this project.

B. Funding For Completion Of UMIP's On-Farm Portion-Escalation Of Costs If Funding Continues To Be Delayed:

In order to complete UMIP in a timely and cost-efficient manner, the Tribe has made yearly requests to the Secretary of the Interior and the Bureau of Indian Affairs to provide the necessary funding in the Administration's budget. This would have enabled UMIP and its to be completed in a timely manner as required by the Settlement Agreement and Act.

In detailed budget documents provided by the Ute Mountain Ute Farm and Ranch Enterprise (the Tribal entity which manages construction of UMIP) to members of Congress, we have explained the need for \$10.2 million to complete the project. There are many other reasons, fiscal and otherwise, why it makes sense to fund the project quickly and complete it. These include the reduction in size of Reclamation offices in Durango and Cortez, the fact that the Tribe need not honor the repayment contract with Reclamation until UMIP is profitable and the large overhead needed to keep UMIP running at less than capacity and associated economies of scale issues. Our efforts have included meetings with the members and staff of the entire House Interior Appropriations Subcommittee.

C. Establishment of an Implementation Team and the Results:

At a November 1993 meeting with Assistant Secretary Ada Deer, she suggested that a Water Rights Settlement Implementation Team be formed to address the issue of UMIP On-Farm funding. The Tribe worked with Joe Little, from the Branch of Regional Water Rights Protection, Bureau of Indian Affairs, Albuquerque Area Office, to have its request included in the Administration's budget. Although we were unsuccessful, officials in the Department of the Interior have indicated that they are aware a mistake has been made. Nevertheless, they have been slow to react and we still need Congress' help. Reference the letters from Ada Deer after the Tribe filed its *Notice of Intent to Reject Dolores Project Water*. In essence, the Implementation Team has not been helpful and is essentially disbanded.

D. People and Entities Affected if Project Not Completed in a Timely Manner:

If the project is not fully funded in a timely manner, in addition to the Tribe, water users in Southwestern Colorado, Northern New Mexico, and Eastern Utah will be detrimentally affected. Furthermore, it is important to note that jobs currently be held by Ute Mountain Ute Tribal Members will be lost and new jobs will not be created if the project is delayed. Again, as noted above, if the United States Government and the Secretary of the Interior

A. Dolores Project:

The reserved water rights claims of the Ute Mountain Ute and Southern Ute Indian Tribes were determined through a negotiated settlement with numerous parties having water rights interests in Southwestern Colorado and the United States Government. The Settlement Agreement and Act which resulted from this negotiation were unprecedented. The Settlement Agreement and Act are unique in that no litigation was required to reach agreement and both Indian and non-Indian water users in Southwest Colorado and the surrounding area have been accommodated. Indeed, in so far as the Dolores Project is concerned, it may not have been completed, much less started, had it not been tied the settlement of Indian water rights.

For the Tribe, a vital part of the settlement agreement was Congress' promise to deliver water to the Tribe for beneficial use, which has not had water on our very arid Reservation for over one hundred (100) years. From the Dolores Project, this water was primarily 1000 acre-feet of M&I and 22,300 acre-feet of agricultural water. The authority to deliver this water was granted to the Secretary of the Interior by the U.S. Congress and is found at Section 4(a) of the 1988 Act and in several sections of the 1986 Settlement Agreement.

The Dolores Projects consists of approximately 41 miles of canal and underground aqueduct which has brought some water from the Dolores River and McPhee Reservoir to the Southwest side of Ute Mountain. Once completed, the water will supply a 7,600 acre center-pivot farming project which we call the Ute Mountain Irrigation Project ("UMIP"). Currently, the Tribe and its construction company, Weeminuche Construction Authority, and its Farm and Ranch Enterprise, have contracted with the Bureau of Reclamation to complete the project. Thus far, the final reach of the canal and all of the laterals have been completed and, provided the necessary funding is available, the entire project could be finished within a year or two. The purpose of UMIP was and has always been to develop a profitable farming enterprise for the Ute Mountain Ute Indian Tribe. Indeed, if the project is not profitable, the Tribe need never pay for O&M on the system.

The final stage of the Dolores Project is to put 22,300 acre-feet of agricultural water to beneficial use on our center-pivot farm project as required under the Settlement Agreement and Act. With the canal complete, it is hard to conceive of the water not being used for UMIP, particularly since the canal will terminate at a remote Southwest side of Sleeping Ute Mountain. The United States and the Secretary of the Interior could not have contemplated building a dam at McPhee Reservoir and a 41 mile delivery system without a beneficial use for the water provided. Beneficial use of the water, as directed by the Settlement Agreement and Act, will be accomplished only if UMIP is properly funded and completed. Currently, the Tribe and Reclamation are in negotiations to complete continuing Reclamation responsibilities under the Definite Plan Report for the Dolores Project.

fail to provide the funding necessary to complete UMIP, negotiated settlements will not be an option in the future and other Tribes may lose faith in the promises and guarantees contained within them. Evidence of this is the Tribe's *Notice of Intent to Reject Dolores Project Water* filed pursuant to the Settlement Agreement and Act. We cannot sit back and allow promises to be broken and will litigate or force the U.S. to renegotiate our Winter's rights on the Mancos River if we need to.

II. Tribe's Notice of Intent to Reject Dolores Project:

A. Background and Information:

As we have stated above, the Tribe signed the Colorado Ute Indian Water Rights Settlement Agreement (Settlement Agreement) on December 10, 1986. This Settlement Agreement was signed into law as part of the Colorado Ute Indian Water Rights Settlement Act of 1988 (P.L. 100-585). Part of the Settlement Agreement guarantees to the Tribe the right to beneficially use its reserved rights Dolores Project agricultural water on reservation lands. As discussed, beneficial use of the Tribe's 23,300 acre-feet of agricultural water will be on 109 center-pivot irrigation sites on the Reservation. Of these sites, only about 40% have been completed due to a lack of federal funding. Because the Tribe has been unable to obtain administration funding for the on-farm portion of the Settlement Agreement, Congress has consistently supported funding in the amount of \$3-4 million per year, acknowledging the United States' obligation to fund the Ute Mountain Irrigation Project (UMIP).

Although the Tribe greatly appreciates Congress' assistance, this level of funding will not complete UMIP in the timely manner contemplated in the Settlement Agreement. As such, until a firm funding commitment from the United States is obtained, the Tribe intends to reject Dolores Project water in accordance with the Settlement Agreement. The was required to make this election to either retain the project reserved water rights or to commence litigation or renegotiation of its pending reserved rights on the Mancos River. Settlement Agreement, p.11.

Please find attached the Notice of Intent which the Tribe sent to all signatories of the Settlement Agreement on December 30, 1994. The signatories to the Settlement Agreement are the Departments of Interior and Justice on behalf of the United States, the Ute Mountain Ute and Southern Ute Indian Tribes, the State of Colorado, the City of Durango, the Town of Pagosa Springs, the Florida Farmers Ditch Company, the Florida Canal Company, the Fairfield Communities, Inc., and the Water Conservancy Districts of Dolores, Florida, Mancos, Southwestern and Animas-La Plata.

B. Department of Interior Response:

The Tribe initiated "consultation with the United States as trustee," pursuant to the Settlement Agreement by notifying the Assistant Secretary for Indian Affairs and the

Commissioner of the Bureau of Reclamation. p.11. Subsequent to that, the Tribe received a letter from the Assistant Secretary which indicated she would provide the Tribe "with a more definitive statement of funding availability on or before January 11, 1995." See, attached letter of December 30, 1994. This date has passed and, although we have finally received a response, no funds were included in the FY 1996 Administration budget. At the same time, the Assistant Secretary's letter also informed the Tribe that she anticipated "working closely with Senator Campbell's office and the Senate Committee on Indian Affairs." We have seen or heard no evidence to demonstrate that this has occurred.

The Tribe has returned correspondence to the Assistant Secretary requesting an update on the status of the promises contained in her letter. A copy of her subsequent response is attached.

In large part, we have received positive responses from all parties to the Settlement Agreement in support of our position that the necessary funding for our irrigation project be provided in a timely manner. In that regard, the Tribe has already begun a dialogue with these parties and expects to work with them to resolve the matter. Nevertheless, the only party to the Settlement Agreement which can rectify this situation is the United States government.

C. Counselor to the Secretary's Response:

The Tribe has also received a response from John Duffy, Counselor to the Secretary, which states that our Notice of Intent is ineffective. Mr. Duffy cites to Congressional testimony and other secondary documents. In response, the Tribe has requested Michael Clinton, former chief settlement negotiator on behalf of the Department of Interior on the Tribe's settlement. Mr. Clinton has issued a statement, together with supporting documents, which further strengthen the Tribe's position that the United States is obligated to fund the on-farm portion of UMIP.

III. Summary of Ute Mountain Ute Indian Tribe's Testimony:

The Tribe will continue to seek appropriations from Congress but would appreciate any efforts the Select Committee can put forth to encourage the Department of Interior to include funds in its budget. This could involve questions posed to that Agency's Secretary and Assistant Secretary as to why no money was included. As we have said, Congress acknowledges the United States' obligation to fund this project and we want the Department to as well.

We thank you for your consideration. Any assistance you can provide in this matter would be very helpful.



UTE MOUNTAIN UTE TRIBE

Towaoc, Colorado 81334
(303) 565-3751

NOTICE OF THE UTE MOUNTAIN UTE INDIAN TRIBE TO REJECT DOLORES PROJECT WATER

December 30, 1994

Pursuant to the 1986 Colorado Ute Indian Water Rights Settlement Agreement (pp.11-12), the Ute Mountain Ute Indian Tribe hereby gives notice to signatory parties of that Agreement of its intent to reject Dolores Project agricultural water and commence litigation or renegotiation of its pending reserved water rights claims on the Mancos River. Under the Agreement, the Tribe is to receive and beneficially use (p.6) Dolores Project water for irrigation purposes on or before May 1, 1994. As of May 1, 1994, the United States, signatory to the Agreement and trustee to the Tribe, had supplied facilities which enable the Tribe to beneficially use the water on only forty percent (40%) of the Reservation lands to be served under the Agreement. As such, the Tribe must elect to either retain the project reserved water rights or to commence litigation or renegotiation of its pending reserved rights on the Mancos River. (p.11).

While the United States is committed to completing the agricultural facilities, the Tribe projects that at the current rate, the United States' plan would take an additional ten years to complete at a minimum. To date, discussions with the United States to substantially accelerate the development of these agricultural facilities have not been successful. With this Notice, the Tribe requests the other signatories to the agreement to work hand in hand with the Tribe to obtain commitment from the United States to accelerate this essential component of the 1986 Settlement Agreement.

While the Tribe has no present intention to litigate its claims on the Mancos River, it is prepared to forego use of Dolores Project agricultural water until April 1, 1995 to determine if the participants working together with the Tribe are able to obtain an acceptable commitment from the United States. Nonetheless, pursuant to the Settlement Agreement the Tribe is required to make an election to either accept what it has received thus far or commence litigation or renegotiation of its reserved water rights claims on the Mancos River.

Based on the percentage of the 23,300 acre-feet of reserved right agricultural water it can beneficially use, at this time the Ute Mountain Ute Indian Tribe hereby issues this Notice of its election to litigate or renegotiate its reserved rights claims on the Mancos River. The result being that it will relinquish its Dolores Project agricultural water until such time as the agricultural facilities are properly funded or this matter is otherwise resolved.

Direct all inquiries to Judy Knight-Frank, Chairperson, Ute Mountain Ute Indian Tribe.

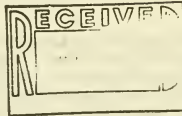
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United States Department of the Interior

 OFFICE OF THE SECRETARY
 Washington, D.C. 20240


DEC 30 1994


 Honorable Judy Knight-Frank
 Chairperson, Ute Mountain
 Ute Tribe
 Towaoc, Colorado 81334

Dear Chairperson Knight-Frank:

Thank you for your letter of December 22, 1994, notifying the Department of the Interior of the Ute Mountain Ute Tribe's intent to reject Dolores Project Water. As you know, I am very concerned about the completion of Dolores Project, and notified you of my intent to find solutions to this issue during our meeting in October 1994.

I have been in contact with the Bureau of Reclamation, John Duffy's office, and the Bureau of Indian Affairs Division of Water and Land in an attempt to find a solution to the funding problem. In addition, I also anticipate working closely with Senator Campbell's office and the Senate Committee on Indian Affairs.

I anticipate providing you with a more definitive statement of funding availability on or before January 11, 1995.

Thank you once again for your letter. I look forward to working with you in the new year.

Sincerely,

ROUTING AND INITIALS		
OFFICE OF THE SECRETARY		
TO:	Ada E. Deer	
1. <u>Juan Hahn</u>	Deputy Assistant Secretary - Indian Affairs	
2. <u>Earl Sten</u>		
3. _____		
Action	File	Information
Approval	For Correction	Recommendation
As Requested	Read	Special File
Circulars	CVI	Research with Mo
Comment	Investigate	Other
Coordinate	Justify	Refer or Discard
REMARKS		
Initials _____		
Date _____		

FEB 17 1995

Honorable Judy Knight-Frank
Chairperson
Ute Mountain Ute Tribe
Towac, Colorado 81334

Dear Chairperson Knight-Frank:

Thank you for your letter of January 26, 1995 responding to my letter of December 30, 1994. While I am looking forward to talking with you in person, I thought I would use this opportunity to advise you of my research conducted to date regarding the Dolores project funding.

First, your letter to Secretary Babbitt will be answered by Mr. John Duffy, and responds specifically to your notice to reject Dolores Project Water, the Bureau of Reclamation's obligation to construct facilities and the status of those facilities, and the Department's view of the use of the Indian Water and Land Settlement Fund to provide for on-farm development. I am sorry this information was not available earlier.

My office has researched the availability of funding for the on-farm portion of the Dolores Project. Informal contacts with the Senate Committee on Indian Affairs have indicated, at least preliminarily, their willingness to support a Tribal request for a Congressional appropriation. However, the Committee stressed the importance of the Tribe seeking this appropriation through appropriate members of Congress. Should the Tribe pursue this avenue, I will fully support your request for funding.

You should be aware that BIA funding for FY 1995, is severely limited. As you may be aware, a rescission hearing was held in January before the House Committee on Appropriations; more than \$200 million dollars of unobligated construction funds may be removed from the BIA's budget this year. Not only will this severely constrain BIA FY 1995 projects, but the rescission of this amount of money may unduly affect future funding for FY 1996 and 1997. I strongly encourage you to develop the appropriate proposals to BIA for FY 96 and FY 97 funds to complete the Dolores project.

One final avenue which I am investigating is funding available under the two other pieces of legislation which authorized the Dolores Project, specifically the Colorado River Basin Enhancement Act and the Colorado River Salinity Control Act. Approximately \$34 million was allocated to the "Dolores Project" under these two acts for FY 1995. Our preliminary conversations with the Bureau of Reclamation have not been fruitful in this regard. I would suggest that the Tribe meet directly with Commissioner Beard on this subject. Should you pursue this avenue, I will support your efforts fully.

While much research remains to be done, this letter provides you a status report on our efforts to date. I would be pleased to meet with you to discuss any other ideas you may have, support this important project, and will keep you apprised of any new information I receive.

Sincerely,

JS/ Ada E. Deer

Ada E. Deer

Assistant Secretary - Indian Affairs

Secretary Surname

Secretary RF (2)

cc: Surname, Chron, Bureau Reading File, 101a

KVandemoer:jlw:x5116:1/30/95:c:\utemt2

**Testimony of the
Makah Indian Nation
Hubert Markishtum, Chairman**

**Submitted to the United States Senate Committee on Indian Affairs
Senator John McCain, Chairman**

February 16, 1995

Mr. Chairman and distinguished members of the Committee, it is our pleasure to provide this testimony on behalf of the Makah Indian Nation in Neah Bay, Washington. We feel it is very important that we state our views for the record in this changing environment and we are confident that your leadership as the new Chairman of the Committee will strengthen and clarify the importance of Indian people and their interests.

The Makah Tribe is a self governance Tribe and we have prevailed as a proud and independent nation due to our isolation and strong cultural link to the land and sea. We have documentation which demonstrates our history and link to our land for the past 4,000 years. It is this legacy which continues to provide the foundation for our economic development and harvesting the resources which come from the great waters of the Pacific Northwest Coast.

ECONOMIC DEVELOPMENT

The priority for the Makah Tribe is the development of a safe harbor and marina for our fishing fleet. This has been a dream for the last 30 years and we are finally close to construction. A breakwater and marina will prevent vessel losses in winter months. Over 120 commercial fishing vessels have been lost in Neah Bay during winter months since 1968. On February 12, 1995, Neah Bay was hit by a severe winter storm which caused the loss of the 90 foot fv Cavaller and the tribal

fuel floats. The Army Corp of Engineers is in the final design stages prior to construction of breakwater and we are hoping to break ground this summer. This breakwater would have prevented these losses. A 240 slip commercial marina is planned to accommodate our fishing fleet and capitalize on the heavy marine traffic which flows by our reservation every day.

During a typical peak summer season, there can be as many as 400 to 500 boats of various sizes in Neah Bay. Recent salmon restrictions negatively impacted recreational demand the past summer. However, the Marina is not captive to recreational fisherman. Demand for the facility comes from the Tribal commercial fleet, non-tribal commercial fishing vessels, and recreational cruisers as well as salmon fisherman, who enjoy Neah Bay's close proximity to Canadian waters and fisheries. This diversification of demand will keep the marina fully occupied during the winter season.

The Makah Tribe has invested over a million dollars of their own funds and land to make this project a reality. Funds are still needed for the construction of the marina and we are applying to various Federal, State and private sources for assistance. The Tribe has been active in the Northwest Timber Initiative and we have received assistance from the Community Economic Revitalization Team (CERT). The active agencies under CERT include the Economic Development Administration, US Forest Service, Housing and Urban Development and the US Department of Agriculture newly termed Rural Economic and Community Development and the State of Washington. The Administration on Native Americans was instrumental in providing a grant for development of this project. We have also contacted over 100 foundations seeking funding.

The stationing of a rescue tug at Neah Bay to assist vessels in distress and in responding to oil spills is also a tribal priority. The State of Washington, Marine Safety Committee has recommended a vessel be stationed at Neah Bay. We are pursuing the possibility of a surplus U.S. Navy ocean going tug for this purpose.

Aquaculture development is also a priority for the Makah Indian Nation. We have begun tests on growing mussels which proved very successful. We expect to begin production in 1996 and are seeking certification as a growing area at this time. We have the natural resources to become a national leader in the marine aquaculture industry. Further research funding is needed to develop cold water marine aquaculture in the United States. Funding from the Departments of Agriculture and Commerce has been available in the past and should be greatly increased if the U.S. is to become a major seafood producer. Importantly, much of the product we could produce would be exported to the Asian and European markets. We urge continued funding for aquaculture development.

The development of the marina and creation of an aquaculture industry will help retain and create at least 120 or more jobs in the community in commercial fishing, fish processing, tourism and other retail related trades. The impetus for this development project is not just the economic feasibility and high potential for economic growth, but the preservation and extension of the Makah's traditional seafaring culture. Cultural support of these projects is a great strength and distinguishes them as truly community-driven projects.

ENVIRONMENTAL CONCERNS

Closure of the Makah open dump is a high priority for the Makah Indian Tribe. Partial funding for this project has been obtained from EPA and BIA. However, closure costs will likely exceed \$2 million and could be much higher. This facility has been used by at least seven Federal agencies as well as the Tribe. The Makah Indian Tribe is currently working with the Portland Area Office of the Indian Health Service to develop a "Landfill Project Summary" document. This document will assist the Tribe and IHS in identifying funding sources for landfill closure in the FY 95-96 IHS budget. Securing funding to implement the provisions of P.L. 103-399 for IHS to address open dumps on Indian lands is of major concern to the Makah Indian Tribe. Continued funding for EPA programs to address tribal environmental needs is a concern for the Makah Indian Nation.

The Makah Tribe is opposed to the shifting of ESA funds out of the BIA Forestry budget and into a central ESA office or program within the BIA. These funds were Congressionally appropriated to specifically address Forestry ESA issues. Use of these funds at Makah enable us to effectively plan current and future timber sale activities with due consideration to endangered species.

Transfer of the funds into a central office or program adds another layer of bureaucracy that will likely diminish the funds to pay for actual on-the-ground work and may divert them for other purposes. The creation of a Central ESA office is contrary to the goal of the Joint Task Force on BIA reorganization and Vice President Gore's National Performance Review.

We strongly oppose the transfer of these funds especially as it is being done without consultation with the affected Tribes and after repeated opposition of the Intertribal Timber Council.

SUPPORT FOR PROGRAMS WHICH ASSIST INDIAN NATIONS:

We are aware that special appropriations is not a realistic approach, but we hope that Congress will retain programs which are related to economic development and job creation. One of the most successful and helpful agencies in this arena is the Economic Development Administration (EDA). Many tribes and non-Indian communities have received small planning grants which has provided funds for a staff person to provide consistent economic development for their community. This has been the case for our Tribe, we have been able to retain a qualified planner and leverage additional funds for the creation of consistent staff and development for community infrastructure and economic development. Please continue your support for EDA and the programs which greatly benefit Indian communities.

Recently the Department of Justice and Department of Agriculture as well as the Environmental Protection Agency have added offices to address Indian issues and the Makah Tribe fully supports these efforts. The leadership at the Department of Agriculture has opened the doors to new and innovative methods to assist rural communities and this direction is positive and right for the political climate of results orientated programs. Continued funding for the Administration on Native Americans programs is vital to the Makah Indian Tribe.

BIA RE-ORGANIZATION EFFORTS

The Makah Indian Tribe has been actively involved in the efforts to support the re-organization of the BIA. Four years ago, under President Bush the Joint BIA/Tribal Task Force was formed to streamline the BIA. This bi-partisan effort has resulted in a plan which is supported by the Northwest Tribes which are currently served by the Portland Area BIA Office. Through the consistent efforts of tribal leaders and the Portland Area Director, Mr. Stan Speakes, a plan has been created which achieve the goals of increasing efficiency while moving services to the lowest level possible. The Portland Area Tribes have a plan which is acceptable Northwest Tribes and meets the new goals of streamlining government.

It has come to our attention that Ada Deer, BIA Assistant Secretary is presenting her version of a new plan very hastily put together which does not have the support of the Tribes. Any effort to consider this plan would meet with resistance from the Makah Tribe. The suggestion of forming "Centers of Excellence" is not a viable solution at this point and only adds to the confusion. With the large numbers of Tribes choosing Self-governance, it is not necessary to create another office to confuse issues. The BIA needs to focus on fulfilling the trust responsibility and managing their own funds and it would not be appropriate for them to start new "Centers of Excellence" when they have a legacy of mismanagement at the expense of Tribes.

Urban Indian Testimony

Statement Before the Senate Committee on Indian Affairs

Washington D.C.

February 16, 1995

by The National Urban Indian Policy Coalition

Chairman McCain and Members of the Committee, thank you for holding this hearing and for your strong support for the needs of indigenous people and urban people throughout this country. Your leadership as a strong advocate for Native Americans, Alaska Natives and Native Hawaiians is noted. We especially appreciate your willingness to receive testimony from a group of First Americans rarely acknowledged until this time.

The federal government's policies of relocation and assimilation over the past century has created a population faced with multifaceted barriers. The federal government's relocation policy of the 50's moved hundreds of thousands of American Indians to all the major urban centers of this country in an attempt to assimilate them into the dominate culture. Assimilation is an abrogation of trust and treaty responsibilities. Urban Indians are still tribally enrolled members, they have not forfeited their legal status, tribal roots, nor their right to educational, social services, housing, health, employment or economic development programs and services.

According to census data, Urban Indians now comprise over 63% of the total American Indian population in the United States today. This is approximately 1,200,000 American citizens.

They consistently have the highest unemployment rates and highest poverty rates of any group in urban areas. According to our data this pattern is consistent throughout the country.

Contrary to popular opinion, Urban Indians are not served under existing Indian-specific laws and funding programs. Urban Indians are also underserved or not served by funding programs available to the general population. Nor are they served by gaming revenues.

Tribal support does occur in some urban areas however, in most cases, this does not happen.

Further, public misperception about the availability of the above sources of support is reflected in policies and funding decisions which ignore or refuse the needs of Urban Indians.

The National Urban Indian Policy Coalition is a group of Urban Indian representatives who serve the Urban Indian communities across the country and are dedicated to the following premises:

A: Indian people are Indian people and members of their tribes no matter where they live.

B: The Urban Indian needs will not be put into competition for resources with tribal needs. We do not participate in "divide and conquer" within or without the Indian communities.

The primary needs of Urban Indians fall into these broad categories:

HOUSING

HEALTH

ECONOMIC DEVELOPMENT

EDUCATION

EMPLOYMENT/JOB TRAINING

In order to meet these needs in the most fiscally responsible manner, and to not compete with our tribal families, access to resources is essential. There are many possible ways to remedy this situation. One alternative way to create access is to facilitate Urban Indian participation in existing and future programs, policies and legislation by simply changing the definitions of where Indians are.

The National Urban Indian Policy Coalition looks forward to working closely with this Committee and others to educate and formulate fair and equitable opportunities for the American Indian communities across the country.

cc: enclosures

**STATEMENT OF
ROBERT PERCIASEPE
ASSISTANT ADMINISTRATOR
FOR WATER
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

FEBRUARY 14, 1995

Good morning, Mr. Chairman, my name is Robert Perciasepe, Assistant Administrator for Water at the U.S. Environmental Protection Agency (EPA). With me today is Terry Williams, Director of the American Indian Environmental Office at EPA. I am pleased to be here today to discuss with the Committee the President's budget for fiscal year 1996 for Indian programs at EPA.

The President's 1996 budget requests a total of \$85 million and 130 workyears for EPA's tribal programs. This is a dollar increase of 77% and an increase of 20% in workyears. These resources are specifically earmarked for assisting tribes and I will discuss their allocation by major program area later in my testimony. In addition, there are many resources in the Agency which provide operational assistance and overall Agency support activities for all of EPA's programs which are not captured in this figure.

The Agency's decision to significantly increase its Indian program resources in today's era of fiscal constraint and workyear reductions clearly demonstrates our concern for the protection of human health and the environment in Indian Country and our commitment to do something about it. As you know, Indian reservation

and trust lands represent almost 5% of the U.S. total, almost three times the size of the State of Georgia.

Our new approach to environmental protection in Indian Country is highlighted in the Agency's Five-year Strategic Plan, "The New Generation of Environmental Protection". It is a strategic common sense approach incorporating government-to-government partnerships and stewardships; achieving environmental protection, either by addressing environmental and health issues, or protecting pristine environments, through a multi-media ecosystem management plan, including watershed management; and involving tribal communities in "place based" environmental decision-making.

In 1984 the Agency issued the "EPA Policy for the Administration of Environmental Programs on Indian Reservations". This policy has provided the framework for our developing partnership with Tribes. Since 1984 Agency programs have changed and several of our statutes have been amended to address Tribal needs. The core principle of the Policy, a commitment to working with federally recognized tribes on a government-to-government basis to enhance environmental protection, has been reaffirmed by President Clinton. In addition, last March Carol Browner formally reaffirmed the EPA Indian Policy and made a commitment to strengthen our implementation programs to reflect the goals and values of our long-term vision and strategic agenda. This includes not only developing environmental programs in Indian Country, either through approving

program administration or direct implementation, but building stronger government-to-government relations with tribes.

This commitment is reflected in the Administrator's establishment of EPA's Tribal Operations Committee. The Committee is made up of tribal representatives and EPA senior managers who meet as co-regulators to consult and act on environmental protection issues in Indian Country.

One of the early issues addressed by the Committee was the lack of a strong and visible focal point for addressing tribal issues within the Agency. In response, the Agency established the American Indian Environmental Office within the Office of Water. This Office provides a primary point of contact and support for tribes within EPA's headquarters.

It also was established to coordinate the development of EPA's tribal policies and make sure they are effectively implemented; develop a national tribal environmental strategy; manage EPA's General Assistance Program grants; work with all offices on grant flexibility and program implementation; promote Agency-wide participation in tribal activities; develop and implement reporting systems and feedback mechanisms for environmental conditions in Indian Country; develop and operate a clearinghouse for tribal environmental information and data sharing; coordinate tribal environmental training; develop and coordinate training of EPA staff on tribal environmental and cultural issues; support the Agency's Tribal Operations Committee; and, coordinate interagency cooperation on tribal environmental issues.

The Administrator personally selected the first Director for this new Office, Mr. Terry Williams, a member of the Tulalip Tribes of Washington. He not only has responsibility for directing the new Office, but participates in the Administrator's senior staff meetings and has significant input into all Agency Indian policies, rules and decisions affecting tribes.

Some specific activities currently underway include continued tribal participation in the Agency's planning and budget development processes; development of EPA-tribal memoranda of agreement for environmental protection with each tribe; creation of a national database which identifies by tribe what environmental programs have been authorized and programs that are needed.

Obviously, it will take time to accomplish all that this Office was created to do, but we are making significant progress. The Agency moved 6 workyears in fiscal year 1995 to establish the Office, and an additional 5 workyears were added to the base of 10 regional workyears for Regional coordination of the Agency's tribal program. In addition, other staff have been detailed and interns have been recruited to staff the American Indian Environmental Office at headquarters for fiscal year 1995.

Our 1996 request includes a total of 30 workyears for the American Indian Environmental Office, ten in headquarters and twenty in the regions. This is an increase of 18 workyears from the 1994 level for the Indian program. These resources do not include workyears in the program offices and regions which

function as Indian coordinators and provide technical assistance for their specific programs.

In fiscal year 1995, \$6 million was appropriated for EPA's General Assistance Program grants. As part of the Agency's operating plan, an additional \$2.5 million was re-programmed from elsewhere in the Agency to support this program. Our fiscal year 1996 request for the General Assistance Program is the authorized level of \$15 million, an increase of \$6.5 million from the 1995 level. These multi-media grants are available to tribes for planning and development of environmental programs. They are authorized in the Indian Environmental General Assistance Program Act of 1992, as amended, which is under the jurisdiction of this Committee. These grants are the foundation for building tribal environmental capacity and are key components of the Agency's Indian program.

Although key components of the Agency's Indian program, the American Indian Environmental Office and General Assistance Program grants represent only a small portion of the Agency-wide resources earmarked for EPA's Indian programs in fiscal year 1996.

Tribes may qualify for many of EPA's other grant programs. Tribes are included in the President's Performance Partnerships. Under this initiative EPA proposes to offer tribes the ability to receive one or more performance partnership grants in lieu of several existing media-specific grants. Tribes could use the funds for multimedia pollution prevention, control, and abatement--provided they comply

with environmental statutes. EPA also proposes to let tribes consolidate administrative procedures to cut costs.

In addition to resources for the American Indian Environmental Office, the President's budget for the Office of Water requests \$43 million to support tribal water quality, drinking water and water infrastructure programs. The Office of Water provides assistance to Indian tribes to obtain program authority and grant funds under selected provisions of the Clean Water Act. The CWA section 106 program will continue to work with Indian Tribes to achieve treatment-as-state status in order to provide financial assistance in the development of water quality management programs, including development of watershed approaches. In addition to the primary activities which include planning, assessments, and standards setting, the Agency will increase efforts in establishing monitoring programs for tribes. The Agency will expand its efforts to address problems tribes and Alaskan Native villages are facing due to lack of basic sewage treatment, and to support operation and maintenance of existing wastewater treatment plants in Alaska. The 1996 program will also focus on providing guidance and training for tribes on controlling nonpoint source pollution and developing or enhancing tribal wetlands programs.

The drinking water program will provide technical assistance to address basic sanitation problems relating to safe drinking water, particularly in the Southwest and Alaska Native villages. The drinking water and groundwater programs will continue to support public water system and underground injection

control activities on Indian lands, with an emphasis on developing programs in order for tribes to qualify for primacy.

In fiscal year 1996 EPA will be implementing the Clean Air Act tribal authority rule which will grant tribes authority to implement and administer Clean Air programs. The President's budget for fiscal year 1996 includes \$5.8 million (an increase of \$4 million) in financial support to federally recognized tribes under the authority of the Clean Air Act for assessment, prevention and control of air pollution on Indian reservations. In addition, the Air program request includes contracts and workyears to provide technical assistance to help tribes develop and implement air quality programs and address air pollution problems.

The President's request for the Office of Solid Waste and Emergency Response includes \$11 million (an increase of \$7 million) for tribal programs. Much of this increase is in the Superfund program which will support its long-term strategy of facilitating tribal participation, by providing financial and technical assistance to encourage tribes to identify, assess, and implement remedies at hazardous waste sites. Activities in the underground storage tank program will emphasize Federal oversight of responsible party-lead corrective actions, assistance to tribal governments in the Leaking Underground Storage Tank program implementation, outreach to tank owners/operators, updating of tank inventories, and implementation of the Federal field citations program.

The solid and hazardous waste programs will build partnerships with tribes through implementation options such as partial authorization. In addition, technical

assistance will be provided to tribes on rulemakings in the hazardous waste program, and support for a circuit rider program to provide solid waste training and technical assistance to tribes will continue.

Also included in the President's fiscal year 1996 request for the Agency Indian programs are resources to provide additional legal and technical enforcement support; criminal enforcement training of Reservation Police in the areas of environmental crime; pesticides training materials workshops with tribal leaders and staffs to protect the safety of groundwater and agricultural workers; and, direct support and technical assistance to Indian nations for the assessment of environmental risk, establishing priorities, and developing plans and implementation activities.

In conclusion, the President's request provides increased resources for a wide range of environmental programs in Indian Country, reaffirming the President's commitment to establish government-to-government relations with tribes, recognize their sovereignty, and fulfill Federal Trust responsibilities. In particular, EPA's portion of the request does all this through the protection of human health and the environment in Indian Country.

HOULTON BAND OF MALISEET INDIANS

ROUTE 3, BOX 450
HOULTON, MAINE 04730
TELEPHONE: (207)532-4273
1-800-564-8524

**WRITTEN TESTIMONY OF THE
HOULTON BAND OF MALISEET INDIANS
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS ON
PRESIDENT'S FY-1996 BUDGET REQUEST
FEBRUARY 16, 1995**

Mr. Chairman McCain and members of the Indian Affairs Committee. I am Mr. Clair Sabattis, the elected Chief of the Houlton Band of Maliseet Indians located in the State of Maine. I appreciate the opportunity to submit written correspondence before the Indian Affairs Committee relating to the President's FY 1996 Budget Request on Indian programs.

Our fundamental problem is the need for "Equity Funding". We were recognized by Congress fifteen years ago. At that time in 1980, there was no "New Tribes Funding" available like there is today. The funds that our tribe originally received back in 1980 were distributed by the Bureau of Indian Affairs from either sources of savings from self-governance programs and/or 638 programs, and were wholly unrelated to the scope of the tribe's actual needs. Even today, the Houlton Band of Maliseet Indians essentially remains locked into the 1980 funding status and does not receive all programs that could be made available from the Bureau of Indian Affairs.

Our capabilities and future needs have increased over the years. For example, the Houlton Band of Maliseet Indians now has a reservation land base and we have just completed our first Fifty (50) Unit HUD Housing Project that was filled to occupancy late February of 1994.

Due to the growing needs of our community, it is imperative to seek fair and equitable funding to address these "shortfall fundings" that adversely affect our tribe, and to obtain all eligible programs and services to become self-sufficient. We believe that our tribe should be entitled to these additional programs and services as to the same extent as accorded to other Indians, Indian Nations, or tribes of bands of Indians in accordance with United States Code, Title 25 - Indians.

Some background of the Houlton Band of Maliseet Indians may be helpful to the Committee. The Houlton Band is a small tribe of about 553 members located in northernmost point of Aroostook County in Maine. The Houlton Band was federally recognized in the 1980 Maine Indian Claims Settlement Act. That Act provided the Houlton Band with a land acquisition fund of \$900,000. We have purchased land in the area of Houlton, Maine. We have a Reservation of approximately 820 acres, where we are actively re-establishing our tribal homeland. We have a tribal community center, which is the focus of our tribal activities -- including our health, social services, education, real estate and administrative programs.

For the past two years, I have provided written and oral testimony to the House Appropriations Committee to seek financial relief due to the minimal funding that we receive for an annual base budget for our Indian programs. This problem is primarily due because of the disparity of equity funding between tribes alike, including the lack of BIA to seek a remedy to treat all tribes equally with additional programs and sufficient funding to adequately administer the various programs.

Because of the limited TPA Funding that our tribe receives, coupled with the BIA fetter, which provides us with very few of the eligible programs that other tribes receives. Because of this, the Maliseet Tribe faces constant adversity to provide adequate and effective services with the limited TPA funding bestowed from the Bureau of Indian Affairs. We conclude that the United States Congress should be made aware of the critical issue of inadequate funding as identified in our Tribal Priority Allocation.

Our tribe currently receive total direct funds of \$266,317.00 for our education, social services, aid to-tribal-government, realty services, and forestry programs. We have had no substantial increases in these programs, and in fact considering the initial minimal amounts granted after recognition, all of these programs have seen numerous reductions over the past fifteen years.

In diverge of the Houlton Band's funding, tribes which are more newly recognized appear to receive more reasonable BIA funding. For example, the Aroostook Band of Micmacs was recognized by Congressional action in late 1991. The Micmacs are our neighbors in Aroostook County, and their initial membership roll was at 472 tribal members. The similarities between the two tribes were acknowledged by Congress in the Micmac Settlement Act which states that

The Aroostook Band of Micmacs, in both its history and its presence in Maine, is similar to the Houlton Band of Maliseet Indians and would have received similar treatment under the Maine Indian Claims Settlement Act of 1980 if the information available today had been available to Congress and the parties at that time.

Public Law 102-171, section 2(a)(4).

Despite the geographical, numerical and historical similarities between the two tribes, it appears that we are being treated in a vastly different manner in terms of BIA funding. According to information provided to us from the BIA, the BIA budget justification for FY-1994 called for the Aroostook Band of Micmacs to receive \$626,000. in Direct Funding and \$250,640. for Indirect Costs. While we have not been provided with a breakdown of the programs for which these funds are allotted, we are confident that the Micmacs' funding is reasonable, and that they have a need for every dollar proposed and more.

On the other hand, the treatment of the Micmacs as a new tribe, underscores how significantly underfunded the Houlton Band of Maliseets are. Our total direct funding is only slightly more than the indirect cost funds proposed for the Micmacs in 1994. To the extent that we are, as Congress has indicated, two similarly situated tribes, this kind of disparity in funding should not be justified. While the needs of the most recently recognized tribes must be addressed, there must also be equity in the distribution of BIA funds and programs alike for tribes like the Houlton Band of Maliseet Indians.

REQUEST:

The Houlton Band of Maliseet Indians hereby request that the following be considered: That Congress advocate for the TPA designation of \$ 626,000. to be included into the President's 1996 Budget for the establishment of an annual base budget within the Bureau of Indian Affairs under the Tribal Priority Allocations for the existing TPA Programs of the Houlton Band of Maliseet Indians. Our Tribe's Current Base Budget for these P.L. 93-638 Programs is at the level of \$285,204.00 for FY-1995. This request of \$626,000. would actually result in a modest, but crucial increase of \$340,796.00 to our current TPA base budget. We ask that the Committee review the years of funding disparity between tribes, as a means of additional justification as you evaluate and/or advocate for our funding request to be included into the President's Budget. Your support and favorable recommendation is greatly appreciated. I thank you for your time and considerations.

Spokane Tribe of Indians Testimony

The Spokane Tribe is concerned that the recommendations contained in the Joint DOI/BIA/Tribal Task Force are not being fully considered in the BIA Stream-lining proposals currently being formulated by the Department. In particular, the Spokane Tribe feels compelled to relate to you their sense of betrayal by what seems to be an apparent attempt by BIA Central Office to ignore the investments made by Congress and Tribes during the past four years of Task Force work.

Specifically, Tribes have the following concerns:

FUNDS CREATED BY STREAM-LINING WILL NOT GO TO TRIBES. Since August of 1994, Tribes have been repeatedly assured by the Secretary and the Assistant Secretary that "savings" created by BIA stream-lining would stay within the BIA System, to be used to improve "customer service" at the Tribe/Agency level. It appears at this date the "savings" will be re-directed to the Treasury. If that should occur, it will be in direct contradiction to the recommendations contained in the Joint Task Force report and to information that Tribes were given by federal officials during the recent "Tribal Consultation" meetings. The funds labelled as "savings" by the Department of Interior which are due to the streamlining process should not be looked at as savings when current programs are already severely underfunded.

BIA CONSOLIDATION PROPOSALS IGNORE THE REALITIES OF INDIAN SELF-DETERMINATION AND SELF-GOVERNANCE. As increasing numbers of Tribes "compact" or "contract" to operate BIA programs, they automatically and permanently reduce the need for continued administrative and programmatic functions within the BIA system. Central Office stream-lining plans appear to disregard the recommendations of the Task Force and the evidence of Tribal Self-Determination, both of which clearly suggest that the BIA is already being stream-lined and down-

sized by tribal initiatives that require no Central Office "plan."

BIA "CENTERS OF EXCELLENCE" ARE NOT CONSISTENT WITH TASK FORCE RECOMMENDATIONS OR TRIBAL NEEDS. Ultimately, BIA Area Offices will evolve to various configurations of "Technical Assistance Centers" by their own accord; in response to Tribal Self-Determination and in response to the mandates of NPR. U.

Historically, the Bureau of Indian Affairs has not requested sufficient funds to cover 100% of contract support need.

Currently, the Bureau is estimated to be \$10.0 million dollars short of actual program need which will result in a 75% allocation of contract support funds to tribes for fiscal year 1995.

In addition, the Spokane Tribe received 81.2106% of contract support in 1994 thus carrying over the shortage of contract support from one year to the next forcing us to utilize program dollars to make up for shortages which further reduces services to tribal members.

Central Office has increased their staff by 19 FTE and increased their budget accordingly. Where is the commitment by the Central Office to restructure and shift resources and authority to field offices and eliminate management layers?

Although the budget reflects an \$89.4 million dollar increase over FY 1995, it is still \$57.2 million dollars short of FY 1994 actual funding which only proves that our programs are increasingly being reduced.

Each year there is an effort to do away with the Indian Business Development Grant program and the U.S. Direct Loan Program. Both are vitally needed if there is to be actual economic development within or near the reservation. The Bureau's loan

guarantee program is satisfactory, but in many new projects private lenders are reluctant to risk venture capital unless there is a complementary investment from either the borrower or another source. Some tribes have relending program, some do not. For the latter situations especially the absence of the IBD grant program or the availability of direct loan funds unfairly penalized development of new projects or expansions of existing projects. In addition, we recommend continuation of the Technical Assistance grant program. This program allows for the provision of consultation services to individuals and tribes to assess and strengthen their business proposal and business plan before presentation to private lenders. Economic Development cannot occur in a vacuum.

The BIA recommends \$5 million for the office of Tribal Justice Systems. This will not enhance Indian tribal courts as intended by Congress in the enactment of the Tribal Justice Systems Act in 1993. Outside capital investment on Indian Reservations will not occur until tribal courts are strengthened by upgrading personnel and allowing for sufficient salaries to attract qualified legal personnel. Presently, tribes compete annually for special courts funds in an ad hoc fashion, attempting to predict what the BIA's proposal readers might find acceptable. Tribes should not have to compete against one another.

1995 TESTIMONY
PRESENTED BY
NORINE SMITH
INDIAN HEALTH BOARD OF MINNEAPOLIS

My name is Norine Smith, I am the Executive Director of the Indian Health Board of Minneapolis (IHB) and an enrolled member of the Red Lake Band of Chippewa Indians. I thank you for the opportunity to express my concerns to this august committee on issues that may have a major impact on programs funded by the Indian Health Service (IHS) which include Indian Health Service Units, tribal Health Clinics ("638" and Compacts), and urban Indian health programs, hereafter referred to as I/T/Us.

The Indian organization that is my employer, the Indian Health Board of Minneapolis (IHB) is a large urban Indian community health center supported by multiple funding sources and has maintained full accreditation by the JCAHO for the past nine years. Federal dollars from the Indian Health Service and the Bureau of Primary Health Care serve as the base funding for the organization. Another significant source of revenue for IHB is third party reimbursement from the Medicaid and Medicare programs. In fact, this source of revenue has resulted in service expansion beyond the survival mode for the clinic.

Being a Federally Qualified Health Center (FQHC) and receiving full reimbursement for the cost of services provided has eliminated the use of grant and contract dollars to supplement the Medicaid reimbursement. The FQHC legislation allowed Community Health Centers and Tribal "638" Clinics to receive full-cost reimbursement for services rendered to Medicaid beneficiaries. Indian Health Service funds are now used for their intended purpose; health care services to uninsured Indian patients. In addition, full cost reimbursement of services provided to IHB's Medicaid population enabled the clinic to upgrade the facility to meet the service expansion needs and improved the finances of the organization.

In 1985, the State of Minnesota submitted a 1115 Waiver which resulted in Hennepin County becoming a Health Maintenance Organization (HMO) Medicaid county. The clinic is located in Hennepin County. When this occurred the clinic was required to negotiate with any and all Medicaid HMOs in order to receive reimbursement for services to this population. Every year since 1985, IHB submitted its rate based upon actual service costs. But the HMO network with which the clinic affiliates capped the negotiated rate at approximately 70% of the actual cost. The rate is 30% less than full cost of service. Third party revenues were further reduced when patients did not designate the clinic as the primary care provider. The HMOs in Minnesota also operate their

own clinics, so they would assign patients who had not designated a primary care provider to their own clinics. The Indian Health Board balanced this inequity in patient assignment through an agreement where a patient could be transferred to the clinic within a thirty day time period. The clinic still loses revenue because it sees the patient at the clinic's expense until the conversion takes place.

The Federally Qualified Health Center status is in jeopardy with the current 1115 Waiver application submitted by the State of Minnesota's Department of Human Services (MDHS) to the Health Care Financing Administration (HCFA). The state is proposing to eliminate cost-based reimbursement for services within three years after the waiver is approved by HCFA. This would result in the loss of 30% of IHB's patient revenues and a decrease in services by one FT per clinic, this refers to the medical, dental, and counseling and support clinics.

The State of Minnesota is proposing to implement this system statewide which could have a major impact on Indian Health Service units and tribal health programs. The IHS Service Units will not receive the federal pass through if the patient has not picked the service unit as the primary care provider under a Medicaid/Medicare HMO system. The 638/Compact tribal clinics will be reimbursed at the rate negotiated with the HMO and reimbursed only if they are listed as the primary care provider. For the programs funded by the IHS in the state of Minnesota, the impact of the proposed waiver could prove detrimental due to the projected loss of 40% of their total operating budgets. IHS funds approximately 50% of the I/T/U clinics' level of need. Thus the tribes are dependent upon the third party reimbursement revenue of the Medicaid/Medicare programs to supplement their budgets. When the tribes lose these revenues they will be forced to cut services. In some situations, this could result in the loss of a provider. Imagine being on call every other night and every other weekend for a medically high risk population. Providers working under these conditions will exit tribal communities. This will leave already medically underserved areas with an even greater gap in service to their isolated communities.

In 1990, the Indian Health Board became a federally qualified health center which enabled the clinic to be reimbursed at cost. Because the clinic was located in a Medicaid HMO county, I worked with the state to write statutory language into the state Medicaid program so the clinic and the state would conduct an annual "settle-up" for the patients that designate IHB as the primary care provider. The state is now proposing to eliminate this language which will result in a loss of revenue to the

Indian Health Board and all other I/T/U/s. The Indian Health Service could negotiate with HCFA for programs funded by the Indian Health Service to receive the federal pass through offered to IHS Service Units and the Veterans Administration programs.

Health Care Reform is about saving the state money ...period. This threatens the Indian Health Service systems, the I/T/Us. More importantly, it threatens the health status of Indian people across the country. In 1960, the average life expectancy of an Indian male was 45 years, today, that average life expectancy has grown comparable to that of the US general population. Although a sicker population, Indian people are living longer as a result of the improvements in health care services through the Indian Health Service.

If significant health care reform is desired then we must examine the changes occurring within the Indian Health Care System. Two major changes threaten the existence of this system. First, the reduction of federal staff, Full Time Equivalents (FTEs). This reduction crosses all federal agencies and is aimed at the level at which most long-term commissioned corp physicians and nurse practioners, and nurses are ranked. This will mean that providers of health care services to Indian people will be lost as those with ranks of GS14 and Commission Corp VI are asked to seek early retirement. The other significant factor which must be factored into this equation is the number of tribes seeking "638"/Compact status. This means the tribes are now ready to govern themselves. Already the Alaska Native Health Board has contracted for the Area Office functions, what impact will this have on Indian Health Service headquarters? It is imperative that a reasonable set of "core" functions be defined and maintained at the Headquarters level. We recommend the following functions at a minimum be maintained at IHS Headquarters:

- National Advocacy
- National Data Collection
- Center for Training and Technical Assistance
- Establishing Standards of Care and Protocols
- Program Monitoring
- Purchasing Agent

Another concern which may potentially threaten IHS and the programs funded by it, is the block grant of Public Health Service Primary Health Care funds to each of the fifty states. In Minnesota, the I/T/Us receive funding for primary health care clinics. The block granting of such funds precludes the "Government-to-Government" relationship which exists between the tribes and the federal government. The sovereign status of the tribes has never been recognized by this state or any others.

As health care reform grows so does the notion of personal responsibility for one's own health regardless of the

socioeconomic factors affecting one's life. If true health care is to be achieved, the medical profession and all providers of social services should focus on early surveillance, prevention, community health and health education. Until society values these preventive measures, reform measures will fail. Without prevention services, diagnosis and treatment of disease are the most costly forms of health care. As forms of health care, Diagnosis and Treatment do not empower the individual to accept personal responsibility for his or her own health and safety, these forms of care continue the escalating cost spiral of health care.

Health care reformers, then, will just be fighting over costs and debating who is going to cover them. For true health care reform to take place in Indian Country, we must teach the people about their cultural and traditional practices because the traditional ways of our ancestors teach one prevention, self care, self discipline, and the desire to seek balance in all areas of one's life which include fulfillment of the physical, mental, emotional, and spiritual needs. As Indian people we have come full circle, the cultural and religious practices that were outlawed may be the answer to saving the Indian population and truly changing the overall health status of Indian people.

To accomplish this return to traditional cultural values, traditional Indian healers need to be recognized as a viable provider of health care services. This inclusion of traditional healers within the I/T/U system of care must be open to all components of service delivery under the Indian Health Service. To advance this recommendation, it would necessitate the certification and credentialing of all forms of traditional health practioners and result in the reimbursement of their services. A precedent already exists within the Medicare program to reimburse for the services of Seventh Day Adventists observers in their own facilities.

A request for funds to support demonstration projects which include traditional healers as part of the treatment and prevention services is needed.

SANTA CLARA

POST OFFICE BOX 580
(505) 753-7326
(505) 753-7330

**INDIAN PUEBLO**

ESPANOLA, NEW MEXICO
87532
OFFICE OF GOVERNOR

**TESTIMONY BEFORE
THE SENATE COMMITTEE ON INDIAN AFFAIRS
F 96 BUDGET OVERSIGHT HEARINGS**

Presented by

**Governor Edwin Tafoya
Pueblo of Santa Clara, New Mexico
February 16, 1995**

Mr. Chairman, my name is Edwin Tafoya. I am Governor of the Pueblo of Santa Clara, New Mexico. The purpose of my presentation is to address several critical issues regarding the proposed budget for the Bureau of Indian Affairs and to request that you committee support hearings specifically related to the recently completed work of the Bureau of Indian Affairs Reorganization Task Force. I support the Administration and Congressional desires to streamline and reduce the size of the federal bureaucracy. We, as tribes, perhaps as much or more so than any other group recognize the long over due need to force the federal government to be more responsive and more accountable to the public. Because, historically, much of our resources have been directly administered by the federal government, we have felt the frustration of witnessing as much as 80 % of each appropriated dollar siphoned off by the federal bureaucracy. We repeatedly hear and read about the federal government's support for self determination but in actuality there are major barriers within the bureaucracy and an organized effort to prevent tribes from gaining control of the resources in order to become more self-sufficient. The resistance by the Department of Interior, the Bureau of Indian Affairs, and Indian Health Service to our efforts to gain control of resources is severe. Until Congress mandates a transition of resources from the federal bureaucracy to tribes, all that any of us will experience is rhetoric and a continuing conspiracy to prevent us from taking control of our destiny.

In October of 1989, in Albuquerque, New Mexico, a meeting was held with tribes, the Bureau and the Secretary of Interior. Out of this gathering was a Congressionally mandated task force charged with the responsibility for examining the operations of the Bureau of Indian Affairs and the formulation of a plan for reorganization. For five years, the Task force labored across the country in formulating a plan for shifting the responsibility and resources from headquarters, Central Office West, and the area offices down to the agency/tribal level. The Task Force examined the various directorates and area offices and concluded that many directorates did not know who the "customer" is. Significant expenditures were being implemented without consideration of how those expenditures and the functions they supposedly supported related to tribes and Indian people. There were not even studies that examined alternative methodologies for delivery of services, no effort to go to the "marketplace" and do comparative shopping. People and resources were being managed without consideration of the cost or the benefit to either the taxpayer or the customer, the tribes and Indian people. Contrived barriers were being constructed at all levels of the Bureau of Indian Affairs to divert the Task Force efforts. If you might, the wagons were circled and the defenders of the status quo well armed to fight off the efforts directed by Congress to make the Bureau responsive to the needs of Indian people in the most cost effective and efficient manner. The Task Force completed its work this last August and prepared a final report. Among its

Page-2-

recommendations, for example, the Task Force supported the creation of a service center in Albuquerque to replace the area office and the transfer of resources and authorities to the agency and tribal level. The "Albuquerque Plan" meets the criteria of the National Performance Review. It meets the spirit and intent of this year's Congress and the "Contract with America." It does not meet the agenda of the career bureaucrats within the Bureau of Indian Affairs and Department of Interior. Tragically, unless Congress passes laws to force implementation of the Task Force recommendations the Department of Interior and the Bureau of Indian Affairs will have won a major battle to retain business as usual. Congress also needs to listen to the Task Force in public hearings as they share their findings and frustrations. Such a hearing will provide needed insight into how a department of the federal government is capable of thwarting the efforts of the citizenry and its representatives in making that Department responsive to the exigencies of today.

Unfortunately, there is more to this story. For several years, under the guise of the Self Governance Demonstration Project, tribes have struggled to wrestle control of funds from the Bureau and to have the opportunity to determine at the tribal level how Bureau funds should be spent. This Project has now been supplanted by a permanent legislation. However, the Bureau continues to undermine this effort. One target area has been the reallocation of funds from Central Office and Central Office West to tribes. Originally, the Bureau argued that it had to retain significant funding in order to carry out its trust responsibilities. To this end, the Bureau agreed to fund each Self Governance tribe the paltry sum of \$45,000 per year. There was no sound rationale for this decision. This winter we were advised that the Bureau has now developed a formula defining the residue dollars that the Bureau needs to retain for carry out its functions and we now will received \$10,000 less from Central Office. Other tribes which have compacted for more programs may receive more than \$45,000. Having knowledge of the studies conducted by the Reorganization Task Force, I know that there is considerable waste of money at Central Office West and I am dumbfounded regarding any justification for this new formula and suspect it was done to suppress tribal efforts to increase the Central Office share..

I suggest that the General Accounting Office conduct a study which reviews the work of the Task Force as well as examining each program and directorate within the Bureau and in the Department as a prelude to a determination of how each dollar appropriated by Congress is spent. I suggest that the GAO will discover, as the Task Force did, that anywhere from \$.40 to \$.80 on the dollar is swallowed up by the federal bureaucracy and that the "customer" sees only fraction of the dollar appropriated by you. I then suggest that Congress examine the authorities given to the Department of Interior and Bureau (and later Indian Health Service) and determine whether those authorities are necessary and if so, whether or not they could best be carried out at the agency/tribal level.

In our theoretical world, we believe that we are striving to gain self sufficiency. We want to break the chains which have tied us to dependency on the federal government. We continue to need resources in all areas but believe that if we were given adequate funding today, we can build a more diversified economy tomorrow that will enable us to support the level of services that our people need. This theoretical work, as I see it, is an investment by you in our future. I don't believe that any of you in Congress intended for the Department of Interior or the Bureau of Indian Affairs to continue to maintain a bureaucracy that is out of touch with its customer or to give even tacit permission to divert hard earned taxpayer dollars to obsolete bureaucracy. If you did nothing more this session than trigger a process of examining the relationship of the federal government to tribes, to examine the operations of the Department and the Bureau (and this needs to be extended to Indian Health Service), to track each dollar you appropriate, the end product would be new legislation that insures that adequate funding goes directly to the tribal level, that many of the authorities that are being retained by the Bureau and Department, are not necessary or could better be administered at the tribal/agency level, and that carrying out federal trust responsibility can be a less burdensome task both in terms of the size of government and in the dollars spent.

In conclusion, we want the "Contract with America" to not be a "Contract on America." This requires a partnership that builds local self sufficiency, and in the case of tribes, gives meaning to self determination and self sufficiency.



Indian Health Board of Billings, Inc.

February 23, 1995

915 Broadwater Square
Billings, Montana 59102
(406) 245-7372 or 245-7318
FAX (406) 245-8872

Senator John McCain
Chairman
Senate Committee on Indian Affairs
U. S. Senate
Washington, D. C. 20510-6450

Dear Chairman McCain:

Enclosed is a AIHCA position paper for the Senate Budget hearings record.

Urban Indian Health Programs FY95 budget was 23 mill, 1% of the IHS 2.2 billion dollar budget. 63% of American Indians live off the reservation.

The 23 mill budget for 34 urban Indian health programs meets 22% of the need.

The FY96 IHS budget has a 1.2 mill dollar increase for Urban Indian Health programs, a small but important increase. IHS needs to provide a more equitable plan to provide health services and budget to Urban Indian programs.

Any assistance you can give the Urban Indian health programs would be greatly appreciated.

Sincerely,

Marjorie Bear Don't Walk
Marjorie Bear Don't Walk
Director, Indian Health Board
President, American Indian Health Care Assoc.

URBAN INDIAN HEALTH CARE: BACKGROUND AND ISSUES

Since 1972, Congress has appropriated, through the Indian Health Service, funds to sustain urban Indian health programs. This action was codified with the enactment of the Indian Health Care Improvement Act (P.L. 94-437) in 1976. Title V of this legislation gave authority to the Indian Health Service to support efforts in American cities to develop improved access for urban Indians to health care including the implementation of direct care services when warranted.

Today, the Indian Health Service provides partial support to 34- private, non-profit urban Indian health organizations located primarily in larger metropolitan cities. These programs vary in size and comprehensiveness. Most are dependent on their ability to collaborate with non-IHS resources to enhance assistance for urban Indians.

The movement of Indian people from imposed reservations established in the 19th century to American cities has been steady since the turn of the 20th century. According to the 1990 census, over 60% of self-identified Indians live off-reservation with the majority, 56% living in larger metropolitan cities. Many factors have contributed to this phenomenon including poverty and family strife on reservations, and government policies during the 1950s and 60s which relocated nearly 200,000 Indians to larger cities.

While some urban Indians are finding success in the city, most continue to struggle. These struggles are manifest in a variety of social indicators that illustrate the need for targeted assistance. Unemployment rates are high, school drop out rates are the highest of any group studied, alcohol and substance abuse use is excessive, and involvement with the criminal justice system exceeds other groups. The health of urban Indians is among the poorest in the nation, comparable to that well documented in the poorer African-American communities.

Urban Indians have great difficulty in capturing the attention of state and local government officials to communicate need. In general, urban Indian communities tend to be quite small in population and highly fragmented. State and local municipalities are reluctant to isolate Indian data for planning and tracking purposes because of the relatively small numbers and the cost of isolating this data. Local planning is frequently done on a geographic basis frequently inconsistent with population-based efforts.

The lack of data has diminished the ability of most urban Indian organizations to effectively advocate for important resources to meet the needs of their constituents. Thus, only the federal government's commitment to urban Indians stands as the foundational funding support essential to providing aid to urban American Indians and Alaska Natives. The loss of federal support for urban Indian health will catapult most urban Indian health programs into financial instability threatening their very existence.

Marjorie Bear Don't Walk, President
AMERICAN INDIAN HEALTH CARE ASSOCIATION
 1550 Larimer Street, Suite 225
 Denver, Colorado 80202
 (303) 607-1048 fax (303) 825-0610

It is increasingly more accepted that culture plays an important role in providing assistance to various ethnic groups. This is true for American Indians who today, continue to retained their cultural values and beliefs. Years of cultural oppression and direct assaults on Indian people have taken an unprecedented toll on their trust of non-Indian help. This factor was documented in a 1989 report by the British Columbia Royal Commission on Health Care and Costs that studied native Canadians and their reluctance to use the Canadian health care system. Cultural insensitivity was the primary reason identified. The result is that native Canadians also have the poorest health status of any group in Canada. Indians in the United States share these feeling with a similar outcome.

To respond to this finding, the Province of British Colombia established two urban Indian health programs, one in Vancouver and one in Prince George. These health centers are modeled after the Seattle Indian Health Board, one of the 34-urban Indian health programs. Preliminary findings indicate that increased access for Indians is being achieved paving the way for preventive education and early care that will improve health conditions for users.

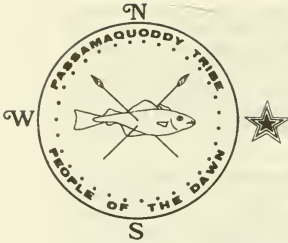
Unlike the Indian Health Service, urban Indian health programs were established in response to well recognized needs. Today, these needs are increasing due to Indian migration to urban areas and recently documented general poor health conditions among urban Indians.

Urban Indian health programs have demonstrated remarkable versatility and innovation in their development. Programs encompass a spectrum of approaches from small information and referral agencies to comprehensive direct primary care centers. The urban programs have succeeded in using their limited IHS funding to attract non-IHS assistance in spite of some of the factors described above. However, the need exceeds current service levels.

The recent movement toward health care reforms has placed many urban Indian health programs in jeopardy. Managed care, used as a fundamental approach to reform, provides unique difficulties for urban Indian health programs. The basic financing principles under managed care, i.e. capitated membership, threatens the cultural-sensitivity factors essential to reaching the most vulnerable Indian constituents in cities. Insufficient financing over the past two decades has left most urban programs without the infrastructure sufficient to participate in local managed care initiatives as they evolve. State and local officials, driven by legislative mandates to reform the mainstream health care system, have little time to address the specific difficulties experienced by not only the American Indians and Alaska Natives communities, but other ethnic groups with similar cultural issues.

In 1994, Congress appropriated approximately \$23 million to support a wide array of health services for urban Indians. Urban programs have used these limited resources to attract non-Indian support for health services for urban Indians reducing demand for expensive emergency room aid. We see this as a small investment in the federal commitment to Indian people grounded in treaties and carried forward in legislative acts and executive orders. We seek Congress's continued acknowledgment and support for our efforts to assure that urban American Indians and Alaska Natives have an equal chance of achieving success.

Marjorie Bear Don't Walk, President
AMERICAN INDIAN HEALTH CARE ASSOCIATION
 1550 Larimer Street, Suite 225
 Denver, Colorado 80202
 (303) 607-1048 fax (303) 825-0610



Pleasant Point Reservation

PERRY, MAINE 04667

February 15, 1995

Honorable John McCain, Chairman
 Honorable Daniel K. Inouye, Vice Chairman
 United States Senate
 Committee on Indian Affairs
 Washington, D.C. 20510-6450

Dear Chairman McCain, Vice Chairman Inouye and
 Distinguished Members of the Committee on Indian Affairs,

My name is Cliv Dore, Tribal Governor, Pleasant Point, Passamaquoddy Tribe, Perry, Maine. We are a tribe of one thousand seven hundred and forty-eight members with a reservation land base of 500 acres, located as far east as one can go in the continental United States, on the ocean, on the New Brunswick/Canadian Border. We are in the poorest county in Maine with a per capita household income of \$6,654 for Pleasant Point. (1990 U.S. Census). We historically run 10 times the unemployment rate for the State of Maine. We are currently not a gaming tribe and depend almost entirely on National Resources based endeavors for our livelihood.

It is a honor to present this testimony to U.S. Senate Committee on Indian Affairs on behalf of my people. While I understand that today's hearing is oriented toward receiving testimony from national Indian organizations on the proposed FY 96 budget, I did want to take this opportunity to submit a statement that discusses some of the specific budget problems that we as a tribe are having. While I appreciate their efforts (and your time constraints), I don't think that national organizations based in Washington, D.C., or Denver or Albuquerque are in the same position as a tribe is in dealing with the day-to-day aspects of federal agency budgeting. I believe the problems we are having in Maine are symptomatic of the problems many tribes face and that this testimony can therefore be constructive in giving the Committee some first hand information. We hope that this testimony helps the Indian Affairs Committee in your deliberations and ultimately in the recommendations you will make to the Budget Committee and the Appropriations Committees. The enclosed documents detail the shortcomings and problems that are caused by a lack of funding and by unfunded mandates. On this subject, we are glad to see that Indian tribes were included in S. 1, the unfunded mandates bill.

Indirect Funds - BIA and IHS/Exhibit #1 & #2

This situation has reached astronomical levels because indirect costs, which the United States is, by law, obligated to pay, are simply not paid. This requires our tribe to take it's meager income, invest in the Federal Programs, wait two years to have the money returned, and all at no interest. Then to add insult to injury, be told by BIA and IHS that there's no funds to pay us back. As detailed in the enclosed supporting documentation our small tribe has invested and is owed by BIA \$233,324.88 and by IHS \$180,875.96. Since FY 1992, the total owed to the Passamaquoddy Tribe is \$414,200.84. I have attached the approved Indirect Cost Negotiated Agreement as approved by the cognizant agency dated June 7, 1994. Also enclosed is final Indirect Cost Rate for the period 10-1-90 to 9-30-91. I must ask what else do we have to do to get reimbursement for funds the tribe has already spent in support of indirect cost requirements? No other contractor of the federal government, including military contractors whose rates are many times higher than our, would ever be treated this way.

With the current chain of events unfolding in Washington, D.C., including the defining and redefining of the Tribal Government's, State Government's and Federal Government's roles, I feel that Tribal Governments should continue to be treated on a Government-to-Government basis. If the State Governments are to be given Block Grants to administer, Tribal Governments should be treated in the same manner. Historically, and today we still are denied treaty rights, access to economic development funds, sustenance rights and a host of other rights generally enjoyed by all other tribes and supposedly guaranteed by our own treaties signed as recently as 1980. We can not continue to live in this strange limbo status. I implore you to treat the tribes of Maine on a government-to-government basis.

IHS - Indian Health Services/Exhibit #3

The Indian Health Services continues to be grossly underfunded. We as Tribal Governments subsidize the Indian Health Service through our Health Insurance in excess of \$500,000 per year yet we have 35% of our population without any health insurance or benefits whatsoever. We are so remote that quality medical personnel are unwilling to relocate here, so we are forced into the very expensive contract care market. Help us! We are desperate for an immediate infusion of direct health dollars.

Economic Development/Exhibit #3A-3

We currently have a proposal for funding under the state that would have provided 200+ full-time year round, resource based jobs. We need seed money to implement this proposal and applied for a state C.D.B.G. Grant funded by the Federal Government and we were turned down. We need access for direct funding. See Exhibit #3A of the Proposal.

In addition we could of placed another 150 jobs on reservation in our industrial park in a juice concentrate plant.

EDA has held up our proposed on-reservation Industrial/Commercial Park while thousands of other cities, towns, and states has been given grants to develop industrial parks. We have been again blocked and frustrated in our economic development endeavors. See Exhibit 3B for our OEDP.

BIA Loan & Grant and Guarantee Funds seem to mostly be given to off reservation businesses. The focus should be on reservation for tribal members. The BIA overlooks its primary purpose when it has such an off-reservation emphasis.

These instances lend credence to our argument that the Federal/Tribal Government relationship is only so much lip service and that this relationship must be strengthened. We need the direct relationship that true sovereign's enjoy, such as being able to have direct access to your Committee and having our voices heard in Congress.

UNMET NEEDS

BIA Programs

The Exhibits 4A through 4E demonstrate a very desperate need for funding that we request be granted for health, safety and protection of tribal resources and members.

Currently the Pleasant Point Tribal Government receives funds from the Bureau of Indian Affairs through the "Tribal Priority Allocation" (TPA) funding system. These funds are received from BIA through the Self-Determination Contracting mechanism. These TPA funds are distributed within our tribal organization to operate a variety of public programs such as: Law Enforcement, Fire Protection, Forestry, Wildlife Conservation and Enforcement, Child Welfare Services, Higher Education, Adult Vocational Training, Tribal Court, Tribal Census, Social Services, Recreation and Agriculture. The total direct funding received under TPA for FY 1995 is only \$1,076,480 dollars.

The BIA funds currently being provided do not meet the actual needs of the Tribe and are less than adequate to operate these various programs at full effectiveness. Due to this inadequate funding, many of these programs suffer with inadequate budgets or must be subsidized with limited local Tribal funds. The tribe estimates that an additional \$683,000 (minimum) of TPA funds are needed in order to operate these programs effectively and to provide much needed services.

The following is a summary of some of the program activities and needs:

1) Exhibit 4A, Warden Service, describes a Warden Service that spans the State of Maine on 145,000 acres of tribal trust land where tribal laws cannot be enforced because of the lack of manpower and resources. Fish, wildlife and land resource cannot be protected nor can the lives of those officers empowered to protect these resources.

2) Exhibit 4B, Law Enforcement, describes a situation that most departments face in equipment shortages as a result of expansion in both land, people and jurisdiction. Even today we have may complex and unsolvable problems between tribal and State Governments. We now have six (6) times more people on our reservation than we did 20 years ago. None of our municipal services have kept pace with our growth.

3) Exhibit 4C, Social Services Program, is a victim of mandatory cuts and is one of two programs that need protection from cuts. We need to replace \$35,000 that the program is currently short and place it permanently in the T.P.A. system to meet mandatory training requirements for required certification.

4) Exhibit 4D, Community Fire Protection, is a must with 100% of our homes and municipal facilities being of wood frame construction and our residences increased from 110 to 315 units over the past 22 years. It is imperative that we have adequate fire protection equipment and trained personnel.

5) Exhibit 4E & F, Tribal Court System, describes our Tribal Court System needs. I know Congress is aware of the tribal courts and the jurisdictional issues we face. However, Congress needs to give sterner, more forceful direction to BIA on behalf of the tribal courts. We need a minimum of \$93,000 to maintain our Court System in a professional manner.

6) Exhibit 4G, Agriculture Program - The Pleasant Point Farm is located on 223 acres of Tribal lands, approximately one half (1/2) miles from the Reservation. The farm was acquired from a long time dairy farmer. The current farm facility has been in existence for at least 30 year. Time has taken its toll on the farmhouse, barns, out buildings, and fencing. The Tribe would like to be able to revive this facility into a modern working farm with a diversity of agricultural activity. The initial capital investment would develop the facility and associated programs into a viable self-sustaining agriculture enterprise.

Thank you for allowing me to submit this testimony and for making it an official part of the hearing record. We appreciate whatever assistance your Committee can offer the Passamaquoddy people.

Yours in Brotherhood,



Cliv Dore
Tribal Governor



UNITED SOUTH AND EASTERN TRIBES, INC.
 711 Stewarts Ferry Pike • Suite 100 • Nashville, TN 37214
 Telephone: (615) 872-7900 • Fax: (615) 872-7417

February 14, 1993

The Honorable John McCain
 Chairman
 United States Senate
 Committee on Indian Affairs
 Washington, DC 20510-6450

Dear Senator McCain:

The United South and Eastern Tribes, Inc. (USET), a Council of Governments from Maine to Florida, is a representative of the Tribal Governments of the Micmac, Maliseet, Passamaquoddy-Indian Townships, Passamaquoddy-Pleasant Point, Penobscot Nation, Wampanoag, Mashamuckeet Poquot, Narragansett, St. Regis Mohawk, Oneida Nation, Seneca Nation, Catawba, Cherokee Nation, Seminole Nation, Micoconukee, Poarch Creek, Choctaw Nation, Tunica-Biloxi, Louisiana Coushatta, Chitimacha and Alabama-Coushatta.

USET thanks you for the invitation to provide written testimony to the Committee on the President's FY 1996 budget request as it relates to the Indian programs. As USET President, I am disappointed that the invitation to provide testimony has been extended only to representative national and regional organizations. This approach to what is arguably the most critical issue that the Congress and our Tribal Governments face each year seems to circumvent the government-to-government relationship that exists between us. Tribal Governments should be allowed to testify directly in hearings before the Committee and should not be forced to testify through an intermediary, such as USET, or any other national or regional organization.

In Congress' haste to keep its months-old "Contract With America," I am concerned that Congress may breach its centuries-old contract with Native America defined by the treaty rights of our Tribal Governments and the trust responsibilities of the United States Government. Tribal Leaders have been given so little time (barely a week) to obtain a copy of the budget request, to examine it and analyze how it will impact our Tribal Governments, and to prepare substantive testimony regarding our specific rights and needs. We have been denied an opportunity to respond to the testimony of Administration witnesses who will appear in a hearing before the Committee at 9:30 A.M. today, because the Committee required our written testimony at least forty-eight hours in advance of the hearing at 9:30 A.M. on Thursday, February 16, 1993.

"Because there is strength in Unity"

February 14, 1995
The Honorable John McCain
United States Senate
Page 2

USET has assembled the written responses to the President's FY 1996 budget request from those Tribal Leaders who were able to reply to our call, and herewith submits these responses as our organization's written testimony. In this manner, USET allows our member Tribal Governments to testify directly in a hearing before the Committee. I ask you as Chairman of the Committee on Indian Affairs to accept this letter and these responses as our organization's written testimony.

Respectfully yours,

Keller George
Keller George
USET President

cc: USET Tribal Leaders

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